



Good Shepherd
Australia New Zealand

Submission to the Inquiry into family, domestic and sexual violence

Committee on Social Policy and Legal Affairs



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Key contact and co-author:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Lead Author:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]



Statement of Recognition

Good Shepherd Australia New Zealand acknowledges the Traditional Custodians of the lands and waters throughout Australia. We pay our respect to Elders, past, present and emerging, acknowledging their continuing relationship to land and the ongoing living cultures of Aboriginal and Torres Strait Islander Peoples across Australia. We recognise that the perspectives and voices of First Nations peoples should be at the forefront of conversations about family, domestic and sexual violence in Australia.

About us

Good Shepherd Australia New Zealand was established to address the critical, contemporary issues facing women, girls and families. We work to advance equity and social justice, and to support our communities to thrive. We aspire for all women, girls and families to be safe, well, strong and connected.

For over 30 years Good Shepherd has partnered with community organisations and peak bodies, local, state and federal governments, and universities to work collaboratively and in place-based settings to improve outcomes for vulnerable people. Our service provision focuses on safety and resilience, economic participation and microfinance. Good Shepherd delivers services across Australia specifically for victim/survivors of family violence including but not limited to case management, family support work, counselling and accommodation. Throughout all of our programs, including financial counselling and capability building we have identified that domestic, family and sexual violence is a pervasive factor of vulnerability—and is often the reason for seeking support.

A central part of our purpose is to challenge the systems that entrench poverty, disadvantage and gender inequality. The Women's Research, Advocacy and Policy (WRAP) Centre does this through a range of research, policy development and advocacy activities.

Acknowledgements

We thank the practitioners from Good Shepherd client services who shared their practice wisdom with us and which we have referenced in this submission. Their insights come directly from working with those experiencing domestic, family and sexual violence and as a result have identified gaps across the service system and opportunities for strengthening our collective response. We acknowledge that their perspectives represent a particular experience, and, are not intended as a substitute for women and children who themselves have experienced family, domestic and sexual violence.

Endorsements

This submission has been endorsed by the following organisations:

- Domestic Violence New South Wales
- Equality Rights Alliance
- Flat Out
- InTouch Multicultural Centre Against Family Violence
- Marie Stopes Australia
- National Foundation for Australian Women
- Soroptomist International of Australia
- Women's Health Victoria
- Women's Property Initiatives

Terminology

Family and domestic violence

We take family violence to mean all forms of violence, which are physical, sexual, psychological or financial in nature. We also recognise the inclusive nature of family violence, which may occur outside of intimate relationships, involving family members and/or kinship networks, as well as multiple perpetrators within the family unit. We will be using the acronym 'FDSV' throughout the submission to refer to all forms of family, and domestic violence.

Sexual violence

Sexual violence can be perpetrated against diverse groups of women in several contexts and settings (e.g., within family and domestic violence, in care settings and in institutional settings). Sexual violence is commonly a form of family violence and recognised as an indicator of heightened family violence risk. As such, in this submission we predominantly refer to sexual violence occurring within the context of family violence (either in intimate relationships or perpetrated by a family member, including siblings).

It was identified by the Royal Commission into Family Violence in Victoria (RCFV) that sexual violence is an area that has the potential to fall through the gaps in the system, as family violence services often do not ask about sexual assault, as it is viewed as a separate form of violence.

We consider sexual violence to be a form of family violence but also acknowledge its distinct impacts on victims/survivors.

We also acknowledge that those who experience family violence are significantly more likely to experience sexual violence in the future, outside the family context. Addressing violence against women (VAW) also includes sexual violence perpetrated by those unknown to the victim in the public sphere, however this sits outside the scope of the current inquiry.

Trauma informed practice

Trauma informed practice means integrating an understanding of past and current experiences of violence and trauma into all aspects of service delivery. The goal of trauma informed systems is to avoid re-traumatising individuals and support safety, agency and control in order to promote healing, recovery and justice outcomes.

Language used to refer to those experiencing FDSV

In this submission we use the term 'victim/survivor' and 'victims/survivors' to refer to those experiencing FDSV as it promotes choice in how the individual wishes to identify their experiences. In adopting this inclusive language, Good Shepherd recognises that although FDSV has lasting impacts, it should not define the lives of those who experience it or their futures.



Executive summary

Family violence has been described by policy makers as a 'wicked' problem, where the term 'wicked' is taken to mean that it is difficult to resolve, with no silver bullet solution (Neave, 2018). Indeed, despite the significant gains of the past five decades, policy responses have been insufficient to reduce the prevalence and severity of family, domestic and sexual violence. Such violence is, on the contrary, increasing in incidence and severity. The arson deaths of Hannah Clarke and her three children in February 2020 – and the 30 other women killed this year in the context of family violence (Destroy the Joint, 2020) – bear devastating witness to this.

Good Shepherd Australia and New Zealand (Good Shepherd) welcomes the opportunity to contribute to the House Standing Committee on Social Policy and Legal Affairs Inquiry into Family, Domestic and Sexual Violence. The Inquiry offers a unique opportunity to consider the drivers of these pervasive social harms, as well as the ways in which responses can be strengthened and improved, to achieve a nationally consistent and coordinated approach.

Specifically, this Inquiry provides a new opportunity to examine the systems that are currently not working to protect women and children – which in fact at times are directly harmful to women and children – and to make recommendations to inform the continued (re)development of a long-term vision and strategy for government and the community, to prevent men's violence against women before it starts.

There has been much progress since the 1970s when the first women's refuge was established, and especially in the past five years, following numerous inquiries and reviews across Australia. Victoria, in particular, has been at the forefront of family, domestic and sexual violence (FDSV) policy development and reform in Australia and has been influential in driving reform in other Australian and international jurisdictions. There have also been other influential inquiries in other jurisdictions, such as Queensland (QLD), New South Wales (NSW), and the Australian Capital Territory (ACT). However, the impact of these inquiries has been mixed insofar as the successful implementation of recommendations. Nevertheless, significant elements of the existing policy structures and responses to FDSV across Australia remain sound, and many of the recommendations made in these prior inquiries could be implemented nationally. We will refer to these throughout our submission. There are, however, clear limitations in existing approaches, not least, the lack of a truly integrated and coordinated national response. New strategies will be required to address this problem, too.

Good Shepherd's practice experience is consistent with research (Pfitzner, Fitz-Gibbon & True, 2020; AIC 2020) and, emerging evidence which has identified that women are at heightened risk of FDSV in all its forms as a result of the current global health pandemic, and exacerbated by official lockdown restrictions. This accords with what is already known about disaster and family violence (Parkinson, 2015). We therefore are at a critical moment in time, where the opportunity to improve existing approaches to ensure they can be responsive to these new circumstances and reflective of best practice, has never been more urgent.

Our work also reveals that the safety risks to children and young people remains a considerable area requiring improved processes. Many children continue to live with violence and abuse, even after parental separation – and this violence can involve multiple perpetrators such as parents, caregivers, and/or siblings. There are few specialist services for young people experiencing FDSV.

Crucially, this Inquiry directs attention to the multiple and intersecting forms of violence and abuse victim/survivors experience, and the need to improve understandings and responses in this respect. FDSV can present in a range of distinct but often intersecting ways, affecting individuals and communities differently. Good Shepherd as a provider of services to diverse communities has identified specific manifestations of violence and abuse, particularly forced marriage and dowry abuse. Both of



these types of abuse have recently been recognised as specific forms of family violence in the Fourth Action Plan of the National Plan to Reduce Violence Against Women and their Children; these forms of abuse, alongside human trafficking and female genital mutilation, are referred to in the National Plan as 'complex forms of violence' (Commonwealth of Australia, 2019: 6). We assert that *all forms* of family, domestic and sexual violence are complex, and what is required is an understanding of how violence and abuse can manifest differently for different people and communities.

It is our experience that violence occurs along a continuum, whereby multiple forms of violence – ranging from non-physical, such as coercive control, to physical violence, such as rape – 'seep into one another' (Ptacek, 2016: 128). Our submission illustrates the dynamics and manifestations of FDSV, emphasising that "rather than a linear chain of transmission or a single link, these interrelationships radiate out in multiple directions; they connect across different forms of violence, endured throughout individual life spans, and extend even over generations" (Hamby & Grych, 2013: 9).

What our work reveals is that for victim/survivors, the unifying experience is that at points in their lives, the family violence systems and the systems it intersects with have failed to understand and meet their needs. The consequent hardship that our clients experience as a result remind us that wide scale, systemic change is not only essential but urgent.

We note that there remain multiple challenges within the FDSV service systems, including overwhelming demand, inadequate funding and resourcing, lack of access, poor integration with intersecting services, and related areas for policy development and service improvement. Systemic failures as we will illustrate in this submission lead to ongoing, sustained abuse and violence experienced by women and their children; this is too often compounded by systems trauma from inadequate and uncoordinated responses.

Genuine reform will not be possible without significant and guaranteed long-term investment, and commitment to continuous evaluation and improvement. A best practice approach is through integrated service responses. We assert that the Federal Government should build on the strengths of current responses to develop a comprehensive and integrated response tailored to, and flexible enough to meet the needs of victim/survivors across all of Australia. It is imperative that our focus is directed to the risk factors for all forms of FDSV, and to the safety and security of all Australian women and their children, unequivocally and without exception, at all times.

While the Inquiry seeks input in relation to prevention, our practice lies in the identification and response to FDSV through early intervention and sustained case work with at-risk women, children and their families. Therefore this submission responds most directly to the terms of reference which are focused on identification and response, whilst reinforcing the recommendations of our sector colleagues working in the area of primary prevention.

This submission makes 45 substantive recommendations to inform improved prevention, intervention, response and recovery initiatives.

We draw on case studies and the insights of Good Shepherd practitioners, including their reflections and observations of working directly with victim/survivors of FDSV. The experiences and expertise of our clients, and the practice wisdom of our practitioners identifies that we are far from being at a point where the systems in place enable victim/survivors to live safe, well, strong and connected lives, as determined by them. The priority for reform should be to get us to that point.

There is momentum for change. The challenge that remains is to seize the momentum and implement the difficult recommendations, particularly those relating to structural change.

We welcome the opportunity to provide further evidence to the Committee in relation to any of the matters raised in this submission.



Recommendations

Good Shepherd recommends that the Australian Government:

Term of Reference A

1. Commission further research into how FDSV impacts and is shaped by women's economic (in)security.
2. Work with gender experts to develop a national training model to assist government and non-government entities, and community-based organisations in adopting a gender-mainstreaming approach; including drawing on the resources that have been developed by the United Nations.
3. Acknowledge the impact of gendered disadvantage on driving FDSV and work to address this, specifically:
 - a. Costing and subsidising care and domestic work, utilising ABS data on unpaid care work;
 - b. Providing free universal child care; sufficiently subsidised aged care; and sick time for all employees including those with casual employment;
 - c. Addressing the overrepresentation of women in precarious and insecure employment by developing policies that support people to practice equal sharing of care work to increase women's representation in more secure (and full time) work;
 - d. Building parity into Australia's superannuation system.
4. Retain the COVID-19 increase in social security payments; and permanently removes mutual obligations and all other barriers that adversely impact women with caring responsibilities.
5. Commit to comprehensive, secure and ongoing funding for the prevention of FDSV nationally, alongside funding for specialist women's services across state and territory jurisdictions. Including, sustained funding to Aboriginal controlled specialist services.

Term of Reference E and H

Economic Abuse

6. Determine a mechanism that ensures mandatory responses from the financial services workforce, with a priority on cultural change from the 'top down', including governance stewardship from the executive levels on this significant and serious issue. We recommend X core initiatives in response:
 - a. Investment in up-to-date and targeted training to identify, prevent and respond to family violence.
 - b. Review of internal hardship policies with the view to implementing practices that collaborate with financial counsellors in the provision of trauma informed responses. Policies must ensure women are empowered to resolve issues that arise from economic abuse can be resolved without third party advocacy—and—debt which was accrued through FDSV circumstance is effectively and efficiently investigated to identify inappropriate lending.
7. Include a nationally consistent definition of economic abuse into legislation which addresses domestic, family and sexual violence across Australia—including in New South Wales where there is currently no definition.



Good Shepherd re-asserts the recommendation made to the 2018 Inquiry on the practice of dowry and the incidence of dowry abuse in Australia, which detailed specific examples for inclusion in the definition of economic abuse, including but not limited to:

- Withholding financial support that is considered reasonably necessary to maintain a partner
 - Demanding financial resources or material goods as part of a marriage or relationship arrangement either at the point of the relationship forming, or after the relationship has been established
 - Unreasonably preventing a person from taking part in decisions over household expenditure or the disposition of joint property
 - Controlling behaviour that denies personal financial autonomy
 - Force, fraud or coercion in obtaining social security payments
 - Forced, fraud or coercion in obtaining bank loans, credit cards or other forms of financial debt
 - Force, fraud or coercion in relinquishing control over assets
 - Preventing a person from seeking, gaining or maintaining employment
8. Provide funding for the development of a national risk tool for the financial services sector in relation to identifying and responding to economic abuse.
 9. Increase investment in specialist family violence lawyers and financial counsellors to deliver frontline economic abuse services to meet the growing demand. This should include funding for financial counsellors in the prison system with the recognition that FDSV are almost universal experiences among the female prison population.
 10. Adopt a partnership model of economic abuse as mainstream service delivery. As established by WestJustice Community Legal Centre, this model requires economic abuse casework to be delivered in partnership with FDSV support services.
 11. Provide funding for research into FDSV, financial services and technology. Given the proliferation in artificial intelligence technology, and the potential for and prevalence of technology-facilitated abuse, data on this issue is crucial for informing the development of applications and services in the financial services sector.
 12. Prohibit fringe lending providers, such as payday lenders from the automatic approval of credit. This can be achieved via already proposed via the National Consumer Credit Protection Amendment (Small Amount Credit Contract and Consumer Lease Reforms) Bill 2019 (No.2).
 13. Invest in specialised FDSV financial counselling positions (especially in Aboriginal communities) to assist victim/survivors to recover from economic abuse and build their capacity for an independent economic future.

In addition to the recommendations made to the Australia Government, Good Shepherd also recommends that:

Good Shepherd also directs the Inquiry's attention to the submission made by Women's Legal Service Victoria (WLSV) on the issue of economic abuse and family law responses.



Dowry Abuse

14. Establish definitional clarity with respect to dowry abuse for the purpose of any legislative and/or policy amendments: including the recognition of an inclusive definition which identifies the range of ways in which money is exchanged in relation to marriage arrangements and the ways in which this can be exploited or abused.
15. Develop practice guidance in the family violence bench book, with clear examples, to assist legal practitioners in identifying and drawing the court's attention to all forms of economic abuse, including dowry abuse.
16. Develop practice guidance for inclusion in state and territory law enforcement codes of conduct, with clear examples to assist police in identifying all forms of economic abuse, including dowry abuse.

Forced Marriage

17. De-link in full, victim/survivor engagement and participation with law enforcement as a gateway to support.
18. Invest in an information development framework for data relating to forced marriage, in order to identify gaps and determine priority information needs. This work should inform the collection of nationally consistent data to establish the true prevalence and nature of forced marriage and support targeted interventions that show clear impact on preventing the practice and protecting individuals at risk.
19. Dedicate resources focused on community and civil society capacity building to ensure that the recognition of forced marriage within the Fourth Action Plan of the National Plan to Reduce Violence Against Women and their Children (2019-2022) be translated into a practical, on-the-ground response. Including but not limited to a prevention program for local communities founded on partnership and inclusion.
20. Resource capacity building of mainstream and specialist workforces – including state and territory police and child protection agencies – to understand and respond to diversity, and diverse experiences of family and domestic violence through cultural training. This training should place particular emphasis on the concept of forced marriage among other complex familial relations and practices within communities.
21. Expand the definition of family violence within the *Family Law Act (1975)* (Cth) to explicitly recognise that it can involve one or more perpetrators of family violence, not always an intimate partner.

Technology-Facilitated Abuse

22. Fund and develop education for bystanders to challenge perpetrators and support victim/survivors, including guidance on how to safely intervene.
23. Fund research into artificial intelligence and FDSV to establish a national database on this little-known form of abuse.



Young people as perpetrators

24. Invest in the establishment and growth of specialist services to address adolescents who use violence against either a parent or sibling. Existing services are inadequate to deal with high-risk cases, and services for sibling-on-sibling sexual violence currently do not exist.

FDSV and Women's Criminalisation

25. Boost funding to existing financial counselling programs being delivered in women's prisons to ensure that a greater number of women get access to this service.
26. Take a leadership role via the newly established Women's Safety Council to move legislative amendments that embed self-determination across all jurisdictional sentencing acts.

Good Shepherd endorses the strategy of *Change the Record: Blueprint for Change*¹ to close the gap in rates of imprisonment and to reduce the disproportionate rates of violence affecting First Nations women and their children.

Recommendations: Term of Reference D

Housing shortfall

27. Commission a review via the Women's Safety Council of the safety and effectiveness of current crisis accommodation responses and models. Specifically:
 - a. Investigate the communal refuge model across Australia with the view to replacing this model with the core and cluster model of crisis accommodation;
 - b. Investigate the barriers that particular groups of women experience to gain access to refuges (including women with a disability, criminalised women, women on temporary visas, women with dual diagnosis, and women with male adolescent dependants) with the view to investing in approaches which remove these barriers.
28. Support states and territories to significantly increase investment in social housing and responses to homelessness. Specifically:
 - a. Increase the stock of affordable, accessible and social housing;
 - b. Strengthen diversified and expanded crisis housing options, including specialist women's services and specialist youth accommodation.
 - c. Invest in wrap-around support required to enable women and their children to remain in their own homes; including improving the availability of accommodation for perpetrators who are removed from the home—this will ensure ongoing safety of women and children in their homes;
 - d. Provide dedicated funding to assist those experiencing or at-risk of experiencing homelessness to move into stable housing.

Health Impacts

29. Reproductive coercion is included in nationwide understandings and definitions of FDSV—including both at a legislative and policy levels.
30. Support states and territories via the Women's Safety Council to invest in institutionalised approaches which ensure all health and allied health services and professionals are fluent in the identification and response of FDSV.

¹ For more see: <https://changetherecord.org.au/policy-framework>



Term of Reference C

Continued lack of coordination and collaboration

31. Support states and territories via the Women's Safety Council to prioritise the continuous development of a functional, integrated and coordinated FDSV system, with a focus on shared risk assessment, management and information sharing. Additionally, focus should be given to:
 - a. Sustaining a skilled workforce;
 - b. Funding ongoing data collection and research
 - c. Developing a nationally consistent approach to child protection practices which identify and assess FDSV risks; understand the complexities of FDSV; work in collaboration with other services, including schools
 - d. Investing in statutory children protection systems and frameworks to meet the challenges of maintaining food practice whilst responding to critical demand pressures, in multi-disciplinary environments;
 - e. Ensuring that governance of the integrated and coordinated FDSV system is informed by specialist knowledge and practice frameworks.

Coordinated approach to support

Good Shepherd endorse recommendations made by AWAVA (2018:10), with a particular focus for the Australian Government to:

32. Invest in cross-jurisdictional coordination of primary prevention across Australia.
33. Commit to a national monitoring and evaluation framework aligned with the National Action Plan to Reduce Violence against Women and their Children, including:
 - a. Funding an independent body to monitor progress against this framework.
34. Support states and territories via the Women's Safety Council to ensure ongoing and sustainable funding of specialist women's services.
35. Support states and territories via the Women's Safety Council to develop workforce capability across all sectors—public and private—who are likely to interface with FDSV.

Police responses

36. Develop a nationally consistent police Code of Conduct for the investigation into FDSV, which includes practical examples to assist police in identifying wide-ranging forms, and complexity of FDSV.
37. Embed continuous, trauma informed training, provided by FDSV specialists, of all police members on the complexity of FDSV, the centrality of gender and FDSV—this requires national coordination to ensure consistent standards across all state and territory jurisdictions. In particular:
 - Police require training on how to ask questions about economic abuse to support effective and efficient placement of intervention orders;
 - Further emphasis must be placed on sibling-on-sibling sexual violence and adolescent perpetrated family violence.
38. Establish a national independent statutory authority to monitor and evaluate performance and cultural change on the policing of FDSV.



39. Support states and territories through the increase of funding to additional judicial officers to meet the rising demand in the family violence intervention order lists: focus should be on First Nations and CALD appointments to address the underrepresentation of these groups.

Strengthening integration and coordination in the family law system

40. Immediately remove the presumption of equal and shared parental responsibility from the *Family Law Act 1975* (Cth).
41. Establish specific, national, information sharing and risk assessment protocols to increase accountability for all relevant professionals (legal and non-legal) interfacing with FDSV matters.
42. Develop a national risk assessment framework for the family law court registry, family lawyers and family dispute resolution practitioners. The framework should:
- Be multi-method and multi-format;
 - Be Culturally sensitive and inclusive;
 - Provide a mechanism for emphasis on the victim/survivors own assessment of risk—as the most reliable indicator
 - Be supported by appropriate training.
43. Fund the development and provision of trauma-informed and multi-disciplinary professional FDSV training of all judicial officers, legal practitioners and court professionals to understand, identify, efficiently case manage, understand, assess and case manage dynamic risk, triage cases, in order to ensure decisions that are fair, safe and promote women’s economic security.
44. Develop and embed family law learning resources for parties in family dispute resolution, to ensure that parties are well prepared and understand their rights and responsibilities on parenting and financial matters. These resources should be available in different languages in consultation with First Nations and CALD communities.

Good Shepherd endorses recommendations from the ALRC Inquiry with respect to information sharing of family court orders on the grounds that these orders and proceedings are a recognised family violence risk factor; and, the establishment of an independent statutory authority with oversight responsibilities for the family law and broader FDSV system.

Good Shepherd further endorses recommendations made by the Monash Family Violence Prevention Centre in their submission to the ALRC Inquiry, particularly with respect to FDSV identification and response be embedded in the curriculum of law degrees nationally.

We also draw the Inquiry’s attention to the submission and recommendations made by Domestic Violence NSW.

Term of Reference K

45. Establish, fund and implement an independent multi-sectoral monitoring and evaluation mechanism, which incorporates accountability and governance—and which is focused on outcomes. The aim should be to:
- Improve consistency of data;
 - Assess performance and measure success of the system as a whole;
 - Provide a mechanism for monitoring and evaluation to be informed by victim/survivor input.



Introduction

Family, domestic and sexual violence in Australia: paving a way towards solutions

In this submission we emphasise the importance of this Inquiry being informed by the social determinants of FDSV, and to consider solutions framed within a model of gender equality. We offer this as an overarching conceptual tool that policy-makers might find useful in understanding the priority areas for reform.

Since the founding of the United Nations, equality between men and women has been among the most fundamental guarantees of human rights. It is Good Shepherd's contention that gender inequality is inseparable from men's violence against women, and that family violence, in all its forms, is a violation of basic human rights.

International agreements, including the Universal Declaration of Human Rights contain standards agreed to by nations of the world. These agreements promote, at the most basic level, the right of every individual to live free from violence of all kinds, including physical, sexual and psychological harm. We frame our submission based on the standards of international human rights instruments, and the UN Sustainable Development Goals, to which Australia is committed.

1.1 What is Family Violence?

Family violence is a catastrophic yet preventable social problem globally and in Australia. Due to its sheer scale, it was recently described by the Executive Director of UN Women, Mlambo-Ngcuka (2020) as the 'shadow pandemic' to the global health pandemic, COVID-19. This description points to the magnitude of the problem we face.

Violence can be described in many ways, and definitions vary across Australian state and territory legislation. We assert from the outset that all forms of family violence are complex, and often, perpetrators use multiple forms of violence to control their victims. Good Shepherd advocates for an intersectional lens to be mainstreamed both across the FDSV service systems and within government and non-government entities and community-based organisations.

As others have explained, an intersectional lens means:

...understanding that gender identity, race, sexuality, religion, ethnicity, age, disability, socio-economic status and others do not exist in isolation from each other but rather are intertwined and influence how we experience the social world and how it perceives us ... taking an intersectional lens means recognising that gender is not experienced in the same way by everyone. Thus, taking an intersectional approach to efforts to prevent and reduce violence against women requires identifying and dismantling systemic discrimination ... and centring marginalised voices (AWAVA, 2019: 7).

Family violence can include rape and sexual violence, physical and psychological abuse, economic abuse, technology-facilitated abuse, female genital mutilation, femicide, dowry abuse and bride burning, forced and unwaged labour in the family business, forced marriage, and adolescent-perpetrated and sibling violence. Gender inequality lies at the root of these complex and often co-occurring forms of violence.

Family violence represents a course of conduct that is cyclical and repetitious in nature, defined by its chronicity. It can cause serious, enduring and cumulative physical and psychological harm, particularly to women and children, as well as long-term financial detriment.

Despite the distinctions between the forms of violence and their impacts, fundamentally, family violence in all its manifestations is about exercising power and control over another person.



There is evidence that FDSV can be intergenerational, insofar as children who have directly experienced family violence (including exposure to violence) have an increased likelihood of becoming victims or perpetrators of violence later in life (RCFV, 2016). This may bear out in the form of adolescent-perpetrated family violence towards a parent, or adolescent-perpetrated physical and/or sexual violence towards a sibling (Elliott et al, 2020). Little is known about this form of family violence and it remains poorly understood. Specifically, sexual violence within a familial relationship is rarely discussed, and it is our experience that very few specialist services exist to support victim/survivors, and perpetrators, of this form of violence, especially for young people residing with the perpetrator/s.

1.2 Gender dimensions and prevalence statistics

FDSV have significant gendered dimensions. They occur within the broader context of structural inequality, characterised by the unequal distribution of power and resources. Structural inequality both produces and heightens women's vulnerability to all forms of men's violence (True, 2010). Due to these structural forces, women are more likely to be the victims and men are more likely to be the perpetrators (ANROWS, 2016). Good Shepherd has a history of working with women, girls and families; the gendered statistics in relation to family violence are consistent with our practice experience.

Australian statistics reveal that across the life course, one in three women will experience some form of family violence compared to one in 19 men (ABS, 2016). The most recent Australian Bureau of Statistics (ABS) Personal Safety Survey (PSS), indicates that women aged 18 years and over are more likely than men to have experienced either physical violence and/or sexual violence, by a partner since the age of 15 (ABS, 2016). The PSS found that in terms of sexual violence in the context of an intimate relationship, women were eight times more likely to experience such abuse than men.

Newly released Australian crime data from the 2019 period reveals that one in three murders (74 of 225) victims and 33% of sexual assaults were connected to FDSV (ABS, 2020).

The statistics in this section provide a bleak picture. Even more confronting is the fact that the data does not even remotely reveal the true extent of the problem, as FDSV are among the most under-reported and under-recognised forms of abuse in society (Bryce, 2015).

1.3 First Nations women

The figures are significantly higher for First Nations women who represent one of the most at-risk, and legally disadvantaged groups in the world (Braybrook, 2015). First Nations women are approximately 34 times more likely to be hospitalised for injuries arising from FDSV than non-Indigenous women, and 11 times more likely to be killed (Braybrook, 2015). The same gendered drivers apply in this context. However, the disproportionately higher rates are best explained as a cause and effect of the intergenerational trauma associated with Australia's colonial heritage, which is in fact ongoing (Braybrook, 2015). Colonial violence includes 'the disadvantage, dispossession and attempted destruction of Aboriginal cultures' (Braybrook, 2015: 18), and the staggeringly high rates of child protection involvement and child removal, which appear only to be escalating (Productivity Commission, 2018). First Nations children are eight times as likely to be subjected to child protection intervention as non-Indigenous children (AHIW, 2018).

FDSV is the leading cause of First Nations children entering statutory out-of-home care, in which those children are then exposed to even greater risks of violence and abuse (Braybrook, 2015)

It also must be acknowledged that the over-policing and over-incarceration of First Nations peoples, and high rates of deaths in custody, constitute ongoing acts of colonial violence. This contributes to the prevalence of FDSV in Aboriginal and Torres Strait Islander communities (Braybrook, 2015).



Contributors to FDSV also include (AWAVA, 2018):

- Exclusion from the education system due to its lack of cultural relevance;
- Exclusion from the employment market
- Financial exclusion from mainstream products;
- Housing stress
- Poverty
- Cashless debit cards

Community controlled, designed and led practices should be resourced, sustained and embedded across the entire family violence and intersecting service systems to promote self-determination in dealing with FDSV.

1.4 Children

To date, there is no comprehensive data on children's experiences of FDSV (AIHW, 2018). Notwithstanding this, the PSS reported that approximately 418,000 women who had experienced FDSV had children in their care who had witnessed this violence (2016). Hospital data also indicates that a high proportion of children admitted to hospital were for injuries sustained in the context of FDSV (AIHW, 2018). Therefore, despite the absence of reliable data, it can be extrapolated from the data that does exist that children make up a significant percentage of victim/survivors in Australia.

The absence of data is problematic from the perspective of targeted intervention, as there are few, if any, interventions specifically funded or resourced for children as stand-alone victims/survivors. Often, children are viewed as witnesses of violence, rather than victims/survivors in their own right, which from our observation has significant impacts on health and wellbeing outcomes. Good Shepherd asserts that the impacts on children of witnessing violence are akin to directly experiencing violence. Opportunities need to be created for children who are victim-survivors of FDSV to have their own voices heard, particularly with respect to decision-making that directly impacts their lives. Frameworks that enable the safe facilitation of this will also need to be developed.

1.5 Temporary migration and family violence

According to statistics, women now outnumber men as primary applicants in the grant of spousal and prospective marriage visas (Ghafournia, 2011). Demand for migrant women's cheap labour in the informal economy, and a reliance on migrant women's incomes to support the family, and the economy in the country of origin, drive women's migration. Additionally, FDSV has been identified as a driving factor behind women's decisions to migrate (True, 2012). Further and/or new experiences of violence in the destination country are also frequently part of the migration story (True, 2012; Segrave, 2017). Instances of FDSV in the destination country are attributable to various factors, such as traumatic pre-arrival experiences, impacting the ability of individuals to cope in a new country and worsening family dysfunction and tensions, as well as the punitive and hostile environment new migrants encounter (AIFS, 2011).

Migrant women's precarious employment also heightens their risk of violence, both within the home by an intimate partner or family member and at the hands of their employers (in many cases, the perpetrator is both an intimate partner or family member and their employer) (True, 2012). Visa status is also frequently weaponised as leverage and control (Segrave, 2017). Women and children on temporary visas are increasingly a particular subgroup of victims/survivors across Good Shepherd's services. In our case work in this area, women and children experience really significant violence but are on unstable visas, and there are extremely limited options for them. Good Shepherd urges careful attention to evidence based submissions to ensure that responses to family violence among migrant communities do not result in more restrictions placed around the migration system.

Prevalence data for FDSV experienced by migrant women in Australia is severely lacking. However, research suggests it is common and victim/survivors lack access to services, including healthcare and social security. Compounding the problem for victim/survivors on temporary visas, is the requirement



for renewal of protection visas every three years, which can be prohibitive for victim/survivors of family violence (if you miss the renewal date it is incredibly difficult to resolve through the court system).

1.6 Economic costs of family violence

FDSV has a serious and increasing economic cost to society. It is estimated that violence against women costs the Australian economy \$21.7 billion per year, with victim/survivors bearing the major burden of this cost (PwC, 2015). It is the leading cause of injury, disability and premature death in women under the age of 45, and it is associated with high rates of acute co-morbid health and quality of life impacts for victim/survivors. All of which contribute to the disease burden, creating an economic toll on Australia's health sector. FDSV is also responsible for other vulnerabilities and insecurities for women, such as poverty and homelessness. From an economic standpoint alone, it makes sense to address this problem urgently.

The remainder of this submission responds to the Inquiry's terms of reference, focusing on solutions, primarily in terms of rapid, trauma-informed responses that increase the provision of support to victims/survivors following initial disclosure. We also advocate for the development of nationally consistent, truly integrated support, based on a multi-disciplinary, wrap-around model. The submission proceeds with an overview of the relationship between gender inequality and FDSV.

2. Gender equality: securing women and children's lives free from violence

Term of reference A: The immediate and long-term measures required to prevent violence against women and their children, and to improve gender equality.

The federal government has a responsibility to prevent gender inequality and violence against women under international human rights obligations, including the UN Sustainable Development Goals. Commitment to a sustained and enduring focus on prevention is critical to stop violence before it begins. This involves challenging social and cultural norms that support attitudes and behaviours inconsistent with gender equality, such as the male head of house phenomenon, which encourages male control over women and children.

As the Australian Women Against Violence Alliance (AWAVA) (2018: 7) explain:

Ongoing work to mainstream gender equality and challenging patriarchy is required to end violence against women and their children. Our Watch's Change the Story framework identified the four key gendered drivers that need to be challenged: the condoning of violence against women; men's control of decision making and limits to women's independence; rigid gender roles and identities; and male peer relations that emphasise aggression and disrespect to women.

However, rejecting and changing social norms and conditions is not possible, nor is it enough, without addressing the structural inequalities that persist. The following section explains how structural forces enable violence against women.

2.1 Gender inequality as structural violence

Gender inequality is deep and persistent around the world, and has long been described as structural violence (True, 2010, 2012). There is now clear evidence that structural violence creates enabling conditions in which men's violence can occur (Ulbrick, 2020).



Gender inequality is the principal driver of violence against women globally (VicHealth, 2007; True, 2010). For instance, women who are forced to become financially dependent on a partner are at the greatest risk of FDSV, and less likely to have the means to leave a violent relationship (Stylianou et al, 2013).

The structural conditions that produce women's financial dependency, through the devaluation of care and domestic labour at both household and transnational levels (which influence factors such as income inequality) both shape and heighten women's vulnerability to violence. Such violence is more likely to be serious, ongoing and escalating in nature and severity.

Good Shepherd emphasises that vulnerability is a *produced* condition, created by the unequal structures of society. Women are not inherently vulnerable to men's violence because they are women; they are vulnerable as a result of the intersecting axes of oppression through which their lives are embedded (Ulbrick, 2020).

AWAVA (2018: 7) points out A key challenge is how to develop approaches to the primary prevention of violence against women that are attentive to all these dynamics.

Existing policies and approaches often obscure the various structural factors that have underpinned the disproportionate likelihood of violence that women face. Such as:

1. The unequal share of non-market caring and domestic work that women continue to perform (at twice the rate as men). This limits women's capacity to engage in the labour market, limits their household bargaining capacity and heightens vulnerability to family, domestic and sexual violence (Deloitte Access Economics, 2018).
2. The feminisation of poverty through women's higher representation in precarious and insecure employment with associated income insufficiency. Nearly 60% of women work in the informal economy, that is, work that is casualised, part-time, and/or unregulated, which heightens their exposure to human rights abuses (True, 2012).
3. The superannuation gap, whereby women retire with significantly less accumulated superannuation and fewer lifetime savings, as a result of their precarious employment and time spent out of the workforce due to caring obligations (WLSV, 2017).

These structural factors both contribute to women's experiences of violence, and limit women's (and their children's) ability to leave violent relationships.

Gender inequality is also compounded by the way that gendered barriers interact with other forms of disadvantage and discrimination. This is particularly the case for First Nations women, where only one in 10 First Nations peoples have financial security (Jenkins, 2019). Gendered barriers exist also for women with disabilities, migrant women, and women living beyond the metropolitan margins, who have considerable unmet economic security needs.

The historical resistance of governments to impute value on social reproductive labour – which is excluded from national accounting systems, such as the Gross Domestic Product (GDP) – has resulted in the invisibility of women's unpaid labour (Waring 1999). To address this, the Australian Bureau of Statistics (ABS) received funding to collect data on unpaid labour and care, during the 2020-21 financial year. Good Shepherd asserts it is crucial that this data be used to inform policy at a deep structural level.

To prevent violence against women (and their children), their financial security must be prioritised, and remediating this gap in social reproductive labour is a core aspect of family violence prevention.

As the Standing Committee on Justice and Community Safety (ACT, 2019: 32) acknowledged in their recent inquiry into domestic and family violence policy approaches and responses:

GSANZ Submission to the Inquiry into family, domestic and sexual violence.



Violence against women cannot be prevented if it is addressed in isolation from the social context, nor if our responses focus only on the symptoms and impacts. Preventing this violence – that is, stopping it before it starts – requires a broad and significant challenge to its underlying drivers, involving work at every level – with individuals, communities and organisations, and changes to the systems, structures and social and cultural norms of Australian society as a whole. State and territory governments ... can make a significant contribution to this whole of society effort.

Good Shepherd is of the view that a deep understanding of the social context of gender inequality is crucial for addressing FDSV. Improving gender equality is a fundamental element of the solution strategy, for the prevention of violence against women and their children in both the immediate and long-term future and must be part of the curriculum from the ground up.

It has been acknowledged in previous inquiries that school-based programs are an essential way of changing generational attitudes to FDSV and providing a basis for young people to understand the drivers of FDSV and the importance of respect in relationships (ACT 2019: 34).

Our practitioners reflected that:

Policies need to be created, and guidelines instituted, in schools around gender equality. They need to get gender policies into the framework. The messaging of a gender binary is still really evident, where we do not treat boys and girls the same and that boys have power over girls; that men are more powerful and have more rights. This messaging is implicit from early childhood education. Early childhood education is now dealing a bit better with it, but primary schools are not doing it at all. The message is then enacted with young people, where they are not clear about their rights to decline unwanted sexual contact from another person. Often young women will say, "well, he bought me a drink", so there is this entrenched sense of owing, of reciprocity and it comes from the idea of how young women should behave from very early childhood. Especially in terms of the emphasis placed on young women to please people. More work needs to be done with men and with all of society about breaking down gender stereotypes in relation to dealing with emotion, too, outside of just getting angry. We see this in adult presentations, where there is no ability to address any emotions or histories of trauma, so any time anything happens to trigger them it's an anger response – starting from a really young age, learning to manage and engage in emotions is so important, and it is a core part of the gender equality work we still need to do.

Good Shepherd Practitioner.

Recommendations: Term of Reference A

Good Shepherd recommends that the Australian Government:

1. Commission further research into how FDSV impacts and is shaped by women's economic (in)security.
2. Work with gender experts to develop a national training model to assist government and non-government entities, and community-based organisations in adopting a gender-mainstreaming approach; including drawing on the resources that have been developed by the United Nations.
3. Acknowledge the impact of gendered disadvantage on driving FDSV and work to address this, specifically:
 - a. Costing and subsidising care and domestic work, utilising ABS data on unpaid care work;



- b. Providing free universal child care; sufficiently subsidised aged care; and sick time for all employees including those with casual employment;
 - c. Addressing the overrepresentation of women in precarious and insecure employment by developing policies that support people to practice equal sharing of care work to increase women's representation in more secure (and full time) work;
 - d. Building parity into Australia's superannuation system.
4. Retain the COVID-19 increase in social security payments; and permanently removes mutual obligations and all other barriers that adversely impact women with caring responsibilities.
 5. Commit to comprehensive, secure and ongoing funding for the prevention of FDSV nationally, alongside funding for specialist women's services across state and territory jurisdictions. Including, sustained funding to Aboriginal controlled specialist services.

3. Identifying 'Complex' Forms of FDSV

Term of Reference E: All forms of violence against women, including but not limited to, coercive control and technology-facilitated abuse; and

Term of Reference H: The experiences of all women, including Aboriginal and Torres Strait Islander women, rural women, culturally and linguistically diverse women, LGBTQI women, women with a disability, and women on temporary visas.

As we have explained from the outset of this submission, all forms of FDSV are complex. We recognise the need for and support tailored responses to addressing FDSV against diverse groups of women and that responses need to be co-designed and community-led. We use an intersectional lens to frame our discussion and recommendations.

A strong evidence base on many of the diverse forms of FDSV is still emerging; we urge careful attention to robust evidence-based submissions to this Inquiry. We emphasise the importance of the Federal Government supporting significant and nuanced research that can fill these critical data-gaps enabling more sophisticated understandings of the multifaceted ways that FDSV is experienced. Further research on the identification of risk is also necessary, in order to develop informed and well-targeted strategies to ensure that women are met with an appropriate response at the first disclosure. Our priority is to ensure women and children can live safe, well, strong and connected lives, free from violence.

With respect to coercive control, and live debates about its criminalisation in Australia. Good Shepherd is of the view that a new criminal offence for coercive control is not supported by sufficient evidence to suggest the efficacy of such laws. Laws responding to coercive controlling behaviours already exist across all Australian state and territory jurisdictions; a new law in this area would be overly simplistic and could in fact be misused against women as respondents.

Good Shepherd strongly urges that the design and implementation of prevention strategies must have diversity and intersectionality at the core to ensure that reforms are inclusive, non-discriminatory and accessible for everyone.

This section seeks to capture some of the complexity of FDSV and explain the root causes of some of the less well-known and understood forms of family violence—and provide recommendations which suggest a roadmap to addressing these complex forms of violence effectively.



3.1 Economic abuse as facilitating coercive control

Economic abuse is a form of FDSV. Economic abuse is expressly defined in family violence legislation across Australian state and territory jurisdictions, with the exception of New South Wales (NSW), where there is no legislative definition².

It is defined differently, across the jurisdictions, with the most detailed and extensive definitions provided in Victorian and South Australian legislation. Nevertheless, the definition in Victoria has been described by experts as unduly narrow, limiting its utility as a protection mechanism (Smallwood, 2015; Ulbrick, 2020).

Victorian legislation defines economic abuse as behaviour that is coercive, deceptive or unreasonably controlling of another person in a way that denies economic or financial autonomy or withholds the financial support necessary for meeting reasonably living expenses (s 6 *Family Violence Protection Act (2008)* (Vic)). It can involve preventing the victim from working or studying, or interfering with work or study. It can involve forcing a victim/survivor to relinquish money earned, or to hand over bank cards to the perpetrator. Economic abuse also can include coercing a victim to claim social security payments they are not otherwise eligible for, or generating debt in a victim/survivor's name, either without their knowledge and consent, or through pressuring the victim/survivor to sign documents for the provision of finance.

Economic abuse can also occur in the context of elder abuse, by an adult child against a parent, or relative. Unique complexities arise for elder victim/survivors, who often stand to lose their only asset: the family home (Justice Connect, 2019).

Recent research has identified that economic abuse frequently occurs alongside other forms of violence and abuse, including: rape and sexual abuse; trafficking and malicious abuse of the immigration system; dowry related 'bride burning'; domestic servitude and unwaged labour in the family business; exploitation and manipulation of legal, social welfare, financial, disaster relief and insurance systems; to insurmountable debt; and escalating inescapable and life threatening forms of physical violence (Ulbrick, 2020). This research revealed that economic abuse is enabled by social structures, and how the law fails to intervene and, indeed, too often operates to perpetuate it.

Coerced debt is also a key aspect of economic abuse, and the evidence-base highlights how surprisingly easy it is for perpetrators to manufacture a situation of long-term, intractable indebtedness and associated hardship for victims of this form of FDSV (Ulbrick, 2020; Batagol, Ulbrick & Barkehall-Thomas, 2020; Tonkin 2018). In this way, victim/survivors are "literally used as a human line of credit" (Ulbrick, 2020: 178). The period immediately after childbirth, and temporary visa status have both been identified as "exposing women to vulnerability that perpetrators exploit, in which they treat women as a resource, and in which financial entities are blatantly ignoring obvious pressure" (Ulbrick, 2020: 178).

Victim/survivors of economic abuse are often coerced into signing loans where they receive no benefit, such as finance for a car or motorbike, where they are left with all of the debt and none of the assets.

In many cases, the coercion is aided by collusion between the perpetrator and unscrupulous brokers/lenders (Batagol, Ulbrick & Barkehall-Thomas, 2020; Ulbrick, 2020). Migrant women have been identified as a particularly at-risk group for FDSV related debt associated with predatory lending practices (Ulbrick, 2020).

² There has been advocacy to include an explicit definition of economic abuse in NSW legislation (Dwyer, 2015).



Although there remains significant room for improvement by the financial services sector in responding to economic abuse and FDSV, there has been some improvement (Bond & Ulbrick, 2020). However, notwithstanding the good progress, even where banks do respond proactively to the presence of economic abuse, such intervention may not mitigate the risk of violence, and in some cases may exacerbate it (Ulbrick, 2020). This highlights just how complex economic abuse is, and how difficult it is to untangle coerced debts.

Victim/survivors are also frequently placed on hardship programs, which are not always the most appropriate course of action as they prevent the proper investigation of the lending and may conceal lending that was inappropriate and in breach of responsible lending obligations in the first place (Ulbrick, 2020).

A key issue in resolving FDSV related debt is that victim/survivors are often not aware of the problem until it reaches crisis point and the debt is both unsustainable and triggering enforcement action (Ulbrick, 2020). Due to being deprived of oversight into their finances, they may not have all the information requested of them from the banks to deal with the problem, the process is often unnecessarily complex, and there may be an unacceptable level of risk involved for victim/survivors to even address the debts (Ulbrick, 2020). There is significant scope to improve practices across the financial services sector, and to ensure that the process for resolving FDSV related debts is trauma-informed.

The need for economic abuse training is made clear by the findings of a recent survey, which found that of 98 financial service providers, and 56 general insurance providers, there was a significant lack of awareness among providers of the impact of FDSV (Family Violence Working Group, 2017). Specifically the survey identified that financial service providers “rarely identify customers experiencing family violence [and] do not have specific family violence training for staff ... and do not intend to introduce training in the future” (Family Violence Working Group, 2017: n.p.).

However, we also assert that training in and of itself is insufficient to respond to the issue of economic abuse. A crucial aspect of the response to economic abuse must be a ‘top-down’ cultural change at the board and leadership level of the financial services sector. Good Shepherd reiterates the findings of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry (2019), insofar as the approach must include training, engagement and culture change within businesses, as well as governance stewardship from the executive level on this significant and serious issue.

Good Shepherd is also concerned that the rising use of digital platforms, and the associated significant increase in consumer access to unregulated, fringe lenders, such as payday lenders and ‘buy no pay later’ schemes, creates a further site for economic abuse to occur. A further concern is the rise in artificial technology in the design and delivery of financial products. As Chen (2020: 674) explains,

The rapid pace at which digitalisation and artificial intelligence have altered the industry has left regulatory frameworks struggling to keep pace with the changes, underscoring the need for reforms to meet the evolving needs of consumers.

The recent Senate Inquiry (2019) into payday lenders found widespread non-compliance with regulations aimed at safeguarding consumers from harm. In addition the report noted that:

...these products appear not only to have been targeted at Australians in financial hardship – they seem to have been designed to take advantage of them. It is difficult to escape the conclusion that many providers’ business models depend on vulnerable consumers who have limited awareness of other product options, limited negotiating power, and limited propensity to complain about improper or illegal behaviour (Commonwealth of Australia, 2019: 4).



In this regard, we assert there are insufficient protections in place for at-risk groups, specifically migrant women who have been identified as at a heightened risk of predatory lending in the context of FDSV (Ulbrick, 2020).

Case Study: Anonymous

It's so common. I mean, so many women that I represented – often not speaking any English – were just wheeled into a loans' office and basically, he did all the talking, she signed up for some loan in her name. But she didn't understand. It was for, like a motorbike, that he was driving and that she couldn't drive. It happens all the time, it's so common. So, I mean there's still these kind of sexist ideas that pervade in the finance system in relation to women. And women borrowing money, and women getting independent advice from men ... it's all tightly bound up in this idea of traditional marriage. ... A central cornerstone to a lot of our financial and legal concepts ... it's sort of this unspoken force that undermines a lot of this and the ability to move forward.

Cited in Ulbrick, 2020: 180

Given the proliferation of artificial intelligence, which lacks the sophistication and nuance to recognise FDSV, including economic abuse, Good Shepherd is of the view that technological advances must be developed with FDSV in mind.

The extensive and multi-faceted experiences of economic abuse and its consequences, as illustrated in recent research by Ulbrick (2020) establishes the seriousness and risks of economic abuse, contrary to its classification in legal and other contexts as a less serious form of abuse.

According to Ulbrick (2020), economic abuse must be viewed as facilitating coercive control, and escalating the risk in women and children's lives... and that the focus should be on early identification and intervention, and recognising economic abuse as a risk factor for serious violence, rather than approaches that focus on criminalisation. Good Shepherd is of the view that there is limited evidence to support criminalising economic abuse or any other form of coercive control (Walklate et al 2018; Fitz-Gibbon et al 2019).

As Ulbrick (2020) finds, there is a need for risk discourses to be expanded to include economic abuse, and a need to reorient the risk framework to better reflect the everyday realities of women's lives, which would encompass the full breadth and 'complexity' of family violence.

3.2 Migration, economic abuse and forced unwaged labour

The issue of forced labour and servitude is common in family violence experienced by migrant women. It constitutes a form of economic abuse that is situated in both the private sphere and within the labour market (e.g., the family business where legal obligations are unregulated).

The following case study (cited in Ulbrick, 2020: 150) illustrates how family violence intersects with exploitation of labour, FDSV (including economic abuse), human trafficking, and risk – and the need to better understand and recognise these intersections:

Case Study: Nisha

Nisha* was born overseas and was in Australia on a temporary visa. She was forced to leave her infant daughter behind. Nisha was a qualified and licenced professional and the perpetrator basically married her for her licence so that he could open up a business in Australia, which required that type of licence. Nisha was under the assumption they were going to Australia as a family, however when she went to the immigration office to sign the documents, her child's name was not on them. The



perpetrator deceived Nisha into leaving for Australia with the promise that their child would be added to the visas at a later date. This did not occur. He deceived her into leaving her baby, and the child was then used as a mechanism of control to prevent her from leaving the relationship. And the whole purpose of excluding the baby from the visa documents was around money. It was so that the perpetrator could make full use of her labour, having her work, rather than be at home caring for the baby. She was forced to work in the family's business unwaged, kept under surveillance. The perpetrator also generated significant debts of around \$100,000 in the victim's name by drawing up fake payslips, as well as applying for online credit. Nisha eventually escaped, however, the perpetrator continued to stalk her and this was dismissed by police.

**Name changed to protect anonymity.*

This example highlights the complexity of family violence cases and how various forms of violence co-occur. Specific to this case, there were multiple debts taken out in the victim/survivors name, without her knowledge or consent, based on doctored payslips. This type of economic abuse can be very difficult to resolve.

This case study also highlights how trafficking may also intersect in FDSV cases. Research suggests that "the causes of human trafficking are rooted in a (global) political economy in which [women's] lives are commodities to be traded, used, and abused" (Bernat & Zhaina, 2010: 3). These abuses often co-occur with economic abuse, as Ulbrick (2020) found, with Australian citizens marrying women living overseas, and then sponsoring their migration to Australia, where the wife is then treated as an indentured servant. Ulbrick (2020) found that this is not uncommon on rural farming properties where the victim/survivor is subjected to extreme physical and sexual violence, economic abuse, and limited avenues through which they can access justice and support, compounded by incredible geographic isolation.

As our practitioners observe:

There really aren't any options for victims/survivors who are on temporary visas. There is some scope if they are already on their partner's visa because it is the only visa with provisions for family violence [recognition], but even then there are pretty severe limitations. They are not entitled to any support, we might be able to find refuges that will take them but the refuge might have internal caps on the number of women they can accommodate [due to funding limitations]. The only real benefit for them is if their child is an Australian citizen they can access Centrelink, but it doesn't help with housing options. It is even worse if the child is not a citizen. In those circumstances there are quite literally no options. It is a huge trap for victim/survivors to stay in violent situations so much longer than if they had access to support – and if they do leave, there is such a sense of hopelessness because there really aren't any options for them. They are forced to make a decision between stable accommodation residing with the perpetrator or be free from violence but homeless with a child. It is a systemic issue and the social security and service systems have been established to eliminate support from those particular groups of people.

Good Shepherd Practitioner.

Crucial to the prevention of violence against women, is the need to recognise that FDSV is also linked to other types of abuses and exploitation. The same gendered patterns of inequality lead to gender-based violence outside the home.



Economic globalisation and the expansion of women's labour market participation alongside the reduction of state social security provisions has increased the demand for women's cheap labour in the informal economies associated with domestic labour, health and social services, and care labour, especially care of children, the elderly, sick people, and people with disabilities. These factors have contributed to huge growth in migration to Australia (ABS, 2017), where there is heightened risk of family, domestic and sexual violence for migrant women who are domestic workers (True, 2010, 2012; Segrave, 2017).

While abuses experienced by domestic workers outside the home is beyond the scope of the Inquiry's terms of reference, we emphasise the importance of recognising the nexus between these human rights abuses in the workplace, and FDSV, which often co-occur, and are driven by the same structural forces.

Existing strategies and interventions do not recognise this connection and fail to address the structural causes and consequences of violence against migrant women.

3.3 Dowry abuse as a form of economic abuse

In 2018, the Senate Standing Committee on Legal and Constitutional Affairs held an inquiry into the practice of dowry and the incidence of dowry abuse in Australia. The key finding of this inquiry was for the term 'economic abuse' to be included as a form of family violence in legislation across Australia, and that a non-exhaustive list of examples of economic abuse accompany the legislation, including among them, dowry abuse³ (Recommendation 1, Commonwealth of Australia 2019). This Inquiry followed several other Government inquiries, which investigated a number of issues related to dowry abuse and provided recommendations, all of which Good Shepherd supported and endorsed through the 2018 Inquiry.

Although the definition of family violence includes economic abuse, which could theoretically capture dowry abuse, as foreshadowed above existing research suggests that the definition of economic abuse within the family violence legislation is unduly narrow. Furthermore, our practice experience tells us that without explicit recognition of these practices, they are often left unidentified and gaps and challenges in interventions arise.

As part of the recommendations of the Royal Commission into Family Violence (2016), Victoria amended the Family Violence Protection Act (2008) (Vic) to explicitly include dowry abuse as a form of family violence. This is an important step to ensuring specific forms of family violence, which are not readily recognised, such as economic abuse and its variants, can be identified and tailored and met with targeted intervention and protection. However, Ulbrick's (2020) finding that economic abuse rarely features on intervention orders limits our confidence that dowry abuse is being identified as a form of family violence.

Ulbrick (2020) identified that due to busy court lists, duty lawyers have insufficient time to obtain full narratives from victims of family violence, and are often failing to ask questions about economic abuse. According to Magistrates economic abuse needs to be put before them so that they can provide appropriate protection orders/identify the level of risk. It is our understanding that dowry abuse is a form of economic abuse and as such, this also needs to be asked about by duty lawyers assisting victim/survivors in the family violence intervention order lists.

³ It is understood that the Government is currently considering its response to the 2018 Inquiry, however, to date, there remains no action or response on any of the recommendations.



In the context of this Inquiry, we highlight the core issues in relation to dowry abuse and its intersection with FDSV. For more than a decade we have seen the practice of dowry (and other related practices, such as bride price) throughout our work in the field of family violence and financial hardship. It is a practice that remains largely unidentified and unrecognised within policy and legal frameworks. It is important to recognise that despite the 2018 Senate Inquiry, there remains mixed understandings about the practice of dowry itself, and, in different communities the exchange of money in relation to marriage occurs in different ways and attracts different terminology. Definitional clarity is required to ensure that abusive practices in relation to monetary exchange in marriage arrangements is properly understood, leading to inclusive, appropriate, and targeted interventions.

Good Shepherd emphasises that the system of dowry in and of itself is not inherently exploitative or abusive. However, the practice of dowry does have the potential to become exploitative and harmful when it is practiced in a way that involves, force, fraud, coercion, deception, threats and violence. It is at this intersection of dowry abuse that we draw our recommendations.

Dowry abuse refers to violence that arises in the context of a dowry negotiation. This can be in the form of ongoing demands for 'gifts' starting before marriage to long after the marriage has taken place. It can also refer to ongoing violence as a result of what is perceived to be an unsatisfactory amount or arrangement. International research has well documented the various forms that dowry abuse can take including battering, mutilation, rape, acid throwing, wife burning, murder and suicide (Patel, Handa, Anitha, Jahangir, 2016).

For the purposes of this submission, Good Shepherd subscribes to the position that any practice where there is an exchange of money in relation to marriage, which is exploited, resulting in abuse and violence fits the definition of economic abuse and as such requires a comprehensive legislative and policy response.

As part of the 2018 Inquiry, Good Shepherd and InTouch Multicultural Centre against Family Violence submitted that the issue of dowry is a contributing factor in some circumstances of FDSV, building on the overall pattern of abuse and violence within a marriage. Like forced marriage (detailed below), it has been our experience that dowry abuse involves multiple perpetrators within the familial setting—family members are often the ones engaged in negotiations for dowry and differing expectations can often lead to violence and abuse being perpetrated toward women.

Significantly, during this same Inquiry, Good Shepherd shared examples from our financial counselling practice which demonstrated an upward trend in the last decade of both male and female clients presenting for assistance in relation to financial hardship arising out of dowry.

Case Study: Samira

Samira* presented to financial counselling services for assistance in relation to multiple credit card debts. Samira states that it was her husband who took out the credit cards in her name because he already had some 'trouble' with the bank and could not take out any further loans or credit cards. Samira discloses that her marriage breakdown was due to family violence. In explaining the circumstances of how she came to be married to her husband, Samira shared that her husband paid her family a significant dowry in order to secure the marriage, which was a standard expectation within her North African community. Samira stated that her husband believed he 'owned' her as a result of paying the dowry and had demands of her, which when not met resulted in physical and psychological violence. Samira said her husband frequently threatened her about money, telling her that he would 'send her back', 'cancel her sponsorship', or 'hurt her family' if she did not agree to sign application forms to take out the credit cards when he asked.



Samira presented with in excess of \$60,000 of debt on multiple credit cards that was accumulated by her husband.

**Name changed to protect anonymity.*

Samira's case is one example that highlights the multiple layers of abuse and violence that can arise out of expectations in relation to dowry, with a particular emphasis placed on forcing Samira to go into financial debt on behalf of her husband. This force involved both physical and psychological violence and Samira consenting to taking out debt under duress.

Samira's case is also consistent with compelling data that demonstrates that people who experience FDSV are more likely to encounter issues such as poor credit records (Corrie, 2017). Samira's case is a further illustrative example that shows the long term impact economic abuse has, extending beyond the violence and abuse they may experience within their marriage—to include damaged credit records, loss of sense of financial capability and poverty (Corrie, 2017; Good Shepherd and InTouch, 2018).

3.4 Forced marriage

Good Shepherd has long called for the recognition of forced marriage as a form of FDSV. Currently, the practice of forced marriage is framed at the federal level within Australia's response to modern slavery – this has resulted in intervention being embedded within the Commonwealth criminal justice framework.

Forced marriage was initially introduced as a federal offence into s 270.7 A of the *Criminal Code Act (1995)* (Cth) in 2013, where it was defined as:

A marriage entered into without free and full consent of one, or both of the parties involved, as a result of coercion, threat or deception. The definition applies to legally recognised marriages as well as cultural or religious ceremonies and registered relationships; regardless of age, gender or sexual orientation.

The criminalisation of forced marriage came as a result of a brief consultation (Attorney General's Department, 2011) centred on broader amendments being considered in relation to trafficking and slavery offences within the *Commonwealth Criminal Code Act (1995)* (Cth). At this time, understanding about the issue of forced marriage including how it takes place, who is involved and the complex relationship dynamics between family members was limited. Whilst agencies working to support victim/survivors of forced marriage have started to build this picture, the true extent of the practice remains unknown. Available data is not comprehensive and there remain gaps in the identification, reporting and support of victim/survivors including within the FDSV sector – chief among these gaps is that the FDSV sector has not been trained to identify and respond to this form of violence and abuse.

What the available data does tell us, is that between 2016-2017, the Australian Federal Police received 70 referrals to their human trafficking and slavery teams nationwide – accounting for 47% of their case work (Lyneham, Dowling & Bricknell 2019). In a briefing provided by the Australian Federal Police in July 2019, it was reported that since criminalisation, 325 referrals of forced marriage have been received with 81 of these occurring within the financial year of 2018-2019.

Given the fact that the organisation of marriage, usually by family members or relatives, without the full and free consent of one of the parties can be characterised as abuse, in addition to the incidence of violence within the marriage-relationship, Good Shepherd asserts that it is vitally important that the response is framed within an understanding of FDSV.



The narrow understanding of forced marriage as modern slavery, and primarily as a criminal justice issue has presented a number of challenges, including:

1. Limited participation in the system by victim/survivors of forced marriage because the perpetrator/s is a family member;
2. Lack of access to support, compounded by the fact that the Commonwealth framework requires referrals from the Australian Federal Police, meaning that individuals not wishing to report their circumstances to the police are unable to access the federally funded support programs for victim/survivors of forced marriage;
3. Young women aged 16-18 represent a significant number of those at risk, and therefore, a more nuanced intervention than the current approach is required to meet their unique needs.

There is growing acknowledgment that in order to holistically address the practice, legislation should only form one part of a comprehensive response to best support individuals and their families.

We assert that the recognition of the practice alongside the FDSV intervention framework will enable individuals at risk of forced marriage to access services and supports, whilst also creating an impetus for tailored and targeted service provision.

Like dowry abuse, it may be argued that Australia's definition of family violence is sufficiently broad enough to include practices like forced marriage, it is our experience that because it is not explicitly recognised or named in the family violence legislation, significant gaps remain in accessibility to legal mechanism as a form of protection, and associated social supports.

The practice of forced marriage has recently received some recognition as a form of family violence insofar as it's:

1. Inclusion of the practice within the Fourth Action Plan of the National Plan to Reduce Violence Against Women and their Children (2019-2022); and
2. Inclusion in Victorian legislation, in the *Family Violence Protection Act (2008)* (Vic).

Alongside this recognition, what is now required is an investment in community and civil society capacity building; to ensure a practical, on-the-ground response. Our practice experience to date, has demonstrated that despite the changes, there remains a significant disconnect between the various agencies best placed to intervene in situations of forced marriage. Forced marriage is still very much considered a matter for the Commonwealth to lead, as such, there are ad-hoc and often unsatisfactory responses from local law enforcement, child protection agencies and mainstream family violence service providers.

A practical response to forced marriage as part of the Fourth Action Plan initiatives is recommended to include a prevention program for local communities founded on partnership and inclusion. Forced marriage, is a complex social problem requiring a multi-platform solution, including but not limited to:

1. Engaging influential community stakeholders including men and faith leaders who hold and promote cultural and traditional norms. Leadership from within communities is an essential element to changing social norms;
2. Targeted community-led strategies in areas of high prevalence that focus on dialogue and localised action within communities.



Forced marriage follows a similar pattern to other forms of coercive control, insofar as it often involves force, fraud, deception, and coercion perpetrated by a number of people, including parents and other extended relatives, for the purposes of controlling the victim.

Good Shepherd has identified opportunities for every State and Territory in Australia to amend legislation pertaining to family violence, child protection, and victims of crime compensation to enhance Australia's response to forced marriage (Vidal, 2019). This is in recognition that legal intervention must be coupled with an investment in the systems responsible for intervention, protection and support. Any legislative and policy change in relation to forced marriage and family, domestic and sexual violence more broadly, must be underpinned by an investment in specialised service responses, including dedicated services and capability building to ensure that victim/survivors are held at the centre of our response.

3.5 Technology-facilitated abuse

Technology-facilitated abuse is another less well-known and poorly understood form of FDSV; and has continued to emerge in our direct practice experience with victim/survivors. This includes technology facilitated economic abuse, and the abuse of carriage services (such as emails and mobile phones) to perpetrate FDSV (refer to Section 5: Case Study)

Research by Henry et al (2018) found that one in three women in Australia, the UK and New Zealand (aged 16 to 64 years) have experienced image-based abuse. The rates for Aboriginal women were one in five, and women with disabilities were also at an increased risk of experiencing this form of violence.

Technology-facilitated abuse is a form of FDSV and can take many forms such as (eSafety Commissioner, 2020):

- Abusive calls or messages.
- Account take overs – where someone accesses your online accounts and locks you out of them.
- Image based abuse – when someone shares or threatens to share an intimate image of you without your consent.
- Fake social media accounts used to harass, or to post negative comments about a person online.
- Surveillance and tracking by way of phone or device.

As we discussed in section 3.1 on economic abuse, perpetrators can also use online banking to harass and intimidate victim/survivors, by leaving abusive descriptions in the transaction notes (Good Shepherd Practitioner).

Technology-facilitated abuse can also refer to 'image-based abuse', which is the non-consensual taking, sharing, or threat to share, nude or sexual images – frequently occurs in the context of family and domestic violence 'victims living in isolation with an abusive partner or family member may be particularly vulnerable to these harms' (Powell & Flynn 2020: n.p.) This form of abuse can also refer to surveillance via technology, and the exploitation of smart appliances in the home to terrorise victims (Burdon & Douglas, 2017).



3.6 Young people as perpetrators: sibling violence/adolescent family violence

Our practice experience has identified that young people experiencing FDSV, particularly in the context of sibling sexual violence, is an area of significant unmet need.

Good Shepherd practitioners have observed:

There is absolutely a co-occurrence between sexual violence and coercive controlling violence for young people experiencing FDSV. That element of coercive control is there even when we don't receive a direct disclosure. We are working with adolescent females who have experienced sexual violence from a family member, and we also work with adolescent females who have experienced sexual violence perpetrated by someone outside the family but it intersects with their experiences of family violence at home – so they have multiple experiences and multiple perpetrators.

Good Shepherd Practitioner.

Another practitioner spoke of the lack of services available to provide support to young people affected by sexual violence as part of family violence:

There is a significant piece of work to be done around sibling-on-sibling sexual violence. There are a number of cases across our program, where the victim of said violence remained residing with the sibling perpetrator. From a Child Protection/justice intervention perspective there is something missing from the FDSV services in terms of offering something to parents or carers in that context. There is a level of upskilling around the impact of sexual violence and knowledge of sexual violence that is desperately needed. As well as information for parents/carers on how to respond to disclosures, how to keep everyone safe and also the requirement to keep the perpetrator safe alongside a reparative process of some sort. Often we see the female sibling referred into every service, they end up in counselling but there is not necessarily the requirement for the male sibling perpetrator to have gone through as intensive a process. We are receiving lots of referrals in the context of sibling-on-sibling sexual violence

Good Shepherd Practitioner.

This was echoed by another practitioner:

The number of services that provide specialist sexual violence services for youth and children is not anywhere near what is provided for adult victims/survivors – which is still limited. There is not anything around for young people who have experienced sexual violence. Our service is one of very few services and the amount of funding allocated is really small for the amount of time and complexity involved in these cases.

Good Shepherd Practitioner.

This is a significant yet under-researched and poorly understood issue.



3.7 FDSV among the constellation of circumstances driving women's criminalisation

Further compounding the complexity of understandings around FDSV is its intersection with the criminal justice system.

FDSV is an almost universal experience for women in the prison system, with 70-90% of incarcerated women having experienced physical, sexual or emotional abuse as children or adults (Gleeson & Baird, 2019; Day et al, 2018).

It is also a leading cause of their offending, which in turn, precipitates a cycle of short-term episodic custodial sentences (Russell et al, 2020). As Russell et al (2020: 5) recently found, "a significant and emergent theme ... is the nexus between family violence, homelessness and women's criminalisation".

The precarious reality of women's lives as they exit the prison system often means they have no option but to return to a violent relationship, due to their abject financial insecurity. Financial counselling supports women to achieve financial security, to deal with family violence related debts, and to establish their lives free from men's violence. Such financial support programs are also vital as a prevention measure to the disproportionately higher rates of post-release deaths from unnatural causes of criminalised populations, than the broader community (Carlton & Segrave, 2011)

Our financial counsellors have observed that there are inadequate financial counselling programs within the prison system for women who have experienced family violence related debt.

Good Shepherd also shares the views of AWAVA (2018: 17) in relation to addressing the criminalisation of First Nations communities:

It is essential to address the fact that Aboriginal and Torres Strait Island communities are overrepresented in the prison system with women comprising 30% and men 24% of the total prison population and constitute the fastest growing prison population. Research indicates the generally petty nature of most offending. The most frequent offences committed by Aboriginal and Torres Strait Islander women are found to be fine default, drunkenness, or offensive language. Larger numbers of Aboriginal and Torres Strait Islander women are coming into prison as a result of high rates of family violence, high levels of unemployment, poverty and homelessness ... The separation of Aboriginal and Torres Strait Islander women from their children continues past government policies which have acted to marginalise, commodify and devalue Aboriginal and Torres Strait Islander women and control every aspect of their lives.

Recommendations: Term of Reference E and H

Economic Abuse

Good Shepherd recommends that the Australian Government:

6. Determine a mechanism that ensures mandatory responses from the financial services workforce, with a priority on cultural change from the 'top down', including governance stewardship from the executive levels on this significant and serious issue. We recommend two core initiatives in response:
 - a. Investment in up-to-date and targeted training to identify, prevent and respond to family violence.
 - b. Review of internal hardship policies with the view to implementing practices that collaborate with financial counsellors in the provision of trauma informed responses.



Policies must ensure women are empowered to resolve issues that arise from economic abuse can be resolved without third party advocacy—and—debt which was accrued through FDSV circumstance is effectively and efficiently investigated to identify inappropriate lending.

7. Include a nationally consistent definition of economic abuse into legislation which addresses domestic, family and sexual violence across Australia—including in New South Wales where there is currently no definition. Good Shepherd re-asserts the recommendation made to the 2018 Inquiry on the practice of dowry and the incidence of dowry abuse in Australia, which detailed specific examples for inclusion in the definition of economic abuse, including but not limited to:
 - Withholding financial support that is considered reasonably necessary to maintain a partner
 - Demanding financial resources or material goods as part of a marriage or relationship arrangement either at the point of the relationship forming, or after the relationship has been established
 - Unreasonably preventing a person from taking part in decisions over household expenditure or the disposition of joint property
 - Controlling behaviour that denies personal financial autonomy
 - Force, fraud or coercion in obtaining social security payments
 - Forced, fraud or coercion in obtaining bank loans, credit cards or other forms of financial debt
 - Force, fraud or coercion in relinquishing control over assets
 - Preventing a person from seeking, gaining or maintaining employment
8. Provide funding for the development of a national risk tool for the financial services sector in relation to identifying and responding to economic abuse.
9. Increase investment in specialist family violence lawyers and financial counsellors to deliver frontline economic abuse services to meet the growing demand. This should include funding for financial counsellors in the prison system with the recognition that FDSV are almost universal experiences among the female prison population.
10. Adopt a partnership model of economic abuse as mainstream service delivery. As established by WestJustice Community Legal Centre, this model requires economic abuse casework to be delivered in partnership with FDSV support services.
11. Provide funding for research into FDSV, financial services and technology. Given the proliferation in artificial intelligence technology, and the potential for and prevalence of technology-facilitated abuse, data on this issue is crucial for informing the development of applications and services in the financial services sector.
12. Prohibit fringe lending providers, such as payday lenders from the automatic approval of credit. This can be achieved via already proposed via the National Consumer Credit Protection Amendment (Small Amount Credit Contract and Consumer Lease Reforms) Bill 2019 (No.2).
13. Invest in specialised FDSV financial counselling positions (especially in Aboriginal communities) to assist victim/survivors to recover from economic abuse and build their capacity for an independent economic future.

In addition to the recommendations made to the Australia Government, Good Shepherd also recommends that:



Good Shepherd also directs the Inquiry's attention to the submission made by Women's Legal Service Victoria (WLSV) on the issue of economic abuse and family law responses.

Dowry Abuse

Good Shepherd recommends that the Australian Government:

14. Establish definitional clarity with respect to dowry abuse for the purpose of any legislative and/or policy amendments: including the recognition of an inclusive definition which identifies the range of ways in which money is exchanged in relation to marriage arrangements and the ways in which this can be exploited or abused.
15. Develop practice guidance in the family violence bench book, with clear examples, to assist legal practitioners in identifying and drawing the court's attention to all forms of economic abuse, including dowry abuse.
16. Develop practice guidance for inclusion in state and territory law enforcement codes of conduct, with clear examples to assist police in identifying all forms of economic abuse, including dowry abuse.

Forced Marriage

Good Shepherd recommends that the Australian Government:

17. De-link in full, victim/survivor engagement and participation with law enforcement as a gateway to support.
18. Invest in an information development framework for data relating to forced marriage, in order to identify gaps and determine priority information needs. This work should inform the collection of nationally consistent data to establish the true prevalence and nature of forced marriage and support targeted interventions that show clear impact on preventing the practice and protecting individuals at risk.
19. Dedicate resources focused on community and civil society capacity building to ensure that the recognition of forced marriage within the Fourth Action Plan of the National Plan to Reduce Violence Against Women and their Children (2019-2022) be translated into a practical, on-the-ground response. Including but not limited to a prevention program for local communities founded on partnership and inclusion.
20. Resource capacity building of mainstream and specialist workforces – including state and territory police and child protection agencies – to understand and respond to diversity, and diverse experiences of family and domestic violence through cultural training. This training should place particular emphasis on the concept of forced marriage among other complex familial relations and practices within communities.
21. Expand the definition of family violence within the *Family Law Act (1975)* (Cth) to explicitly recognise that it can involve one or more perpetrators of family violence, not always an intimate partner.



Technology-Facilitated Abuse

Good Shepherd recommends that the Australian Government:

22. Fund and develop education for bystanders to challenge perpetrators and support victim/survivors, including guidance on how to safely intervene.
23. Fund research into artificial intelligence and FDSV to establish a national database on this little-known form of abuse.

Young people as perpetrators

Good Shepherd recommends that the Australian Government:

24. Invest in the establishment and growth of specialist services to address adolescents who use violence against either a parent or sibling. Existing services are inadequate to deal with high-risk cases, and services for sibling-on-sibling sexual violence currently do not exist.

FDSV and Women's Criminalisation

Good Shepherd recommends that the Australian Government:

25. Boost funding to existing financial counselling programs being delivered in women's prisons to ensure that a greater number of women get access to this service.
26. Take a leadership role via the newly established Women's Safety Council to move legislative amendments that embed self-determination across all jurisdictional sentencing acts.

Good Shepherd endorses the strategy of *Change the Record: Blueprint for Change*⁴ to close the gap in rates of imprisonment and to reduce the disproportionate rates of violence affecting First Nations women and their children.

4. Housing, health and living free from violence

Term of Reference D: The way that health, housing, access to services, including legal services, and women's economic independence impact on the ability of women to escape domestic violence.

Good Shepherd makes clear that women's economic independence is the greatest enabler to women living safe, well, strong and connected lives, as determined by them. Barriers to fleeing violence – in addition to financial dependency – include health consequences causing dependency on the perpetrator, housing dependency and a lack of access to the range of specialist services required.

4.1 Housing shortfall

FDSV is the prevailing face of homelessness in Australia (Heath, 2020). For young people it is the cause of homelessness in virtually every case (AWAVA, 2018). Despite this, there is a critical lack of specialist services and appropriate housing options. Specifically, the current housing options are not fit for purpose, insofar as the housing is dangerous, overcrowded and unaffordable (Hancock, 2019).

Providing safe, affordable, appropriate and ongoing housing options for victim/survivors reduces the risk of homelessness and helps families stabilise and rebuild their lives. It also reduces the likelihood of

⁴ For more see: <https://changetherecord.org.au/policy-framework>



criminalisation, helping women escape the cyclical vortex that pushes them between services, crisis accommodation, and the prison system (Russell et al, 2020). This is, again, a structural issue.

Good Shepherd asserts that the preference is for women and children to be empowered to safely remain in their homes.

Systems have gotten better at helping families stay safe in the home, but there are still issues. They might be safe but tenancy is at risk. Or the perpetrator uses economic abuse if they are removed. Women might have access to power and utilities cut off – there is a lot of complexity around staying at home, especially if it is a shared ownership or private rental. How do you make that sustainable and an ongoing option, and making sure it continues to be a safe option? It is quite complex but that is what it needs to be – women and children need stable, safe and in ongoing tenancy, while the perpetrator is held to account.

Good Shepherd Practitioner.

Remaining at home is not always a safe option for women and children. Therefore, growing and diversifying the range of housing options available for people experiencing family violence is critical, both at the crisis point and in the long term.

Our practitioners have observed a critical shortage in safe, secure and ongoing tenancy for women and children affected by all forms of family violence:

There is not enough accommodation for women and children to access. There is no way out if they want to escape family violence rapidly. Victims are being placed in motels, which are not trauma-informed, or aware of the care and support required. The system as it currently stands is approaching victims and putting them in a space where there is uncertainty, which then leads victims to question 'was it even that bad when I was in the family violence situation?'. If there is no affordable safe accommodation, we cannot expect women and children to maintain safety—particularly when the system imposes hardship.

Good Shepherd Practitioner.

Good Shepherd practitioners similarly stated that accountability needs to be on the perpetrator and that perpetrators abuse the system and use economic abuse if they leave the home, so often there is little option for women but to flee. However, it is not possible to hold perpetrators to account where there is no safe avenue to keep women and children safe.

The inability to hold perpetrators to account is underscored by the system focus on women and children fleeing, rather than women and children being supported to safely remain in their homes. As our practitioners reflected:

We are still in a system where women and children are needing accommodation and this is part of the problem. Because it is still about women and children having to escape so there needs to be a system of perpetrator accountability, action taken against the perpetrator and mandated responses including removing the perpetrator, balanced with the need of women and children to look for alternative accommodation when those other options are not viable.

Good Shepherd Practitioner.



This response also reflects the lack of safety and security in crisis accommodation that women enter into when fleeing violence, as was illustrated above by a practitioner who spoke of services sending women and children to motels, which causes them to question if the violence they were fleeing was “really that bad”.

For women at high risk of death or serious injury as a result of family violence, there is often a need to relocate to a family violence refuge to address their immediate safety needs. However, the current communal model of crisis accommodation is not always safe or appropriate. Immediate action is required to address the housing crisis in Australia.

4.2 Health impacts

Family violence is associated with quality of life impacts that are both immediate and ongoing (Adams & Beeble, 2018); it is linked to a wide range of trauma-related chronic health consequences and risks in the lives of victims, including gastrointestinal syndromes, pelvic and reproductive health problems, and psychosomatic symptoms, as well as mental health impacts.

The mental health impacts include (complex) post-traumatic stress disorder, increased suicidality, higher rates of psychological distress, and heightened risk of depression and anxiety (Voth Schrag, 2019: 314). There is also an increased likelihood for co-morbidities and dual diagnoses, with chronic and entrenched mental health conditions, such as eating disorders. Victim/survivors of FDSV are twice as likely to develop an eating disorder than those who have not experienced physical and sexual abuse (Rayworth, Wise & Harlow, 2004; Brady, 2008).

In addition to the aforementioned, the health and quality of life impacts for sexual violence, also include gynaecological complications (vaginal bleeding or infection, fibroids, decreased sexual desire, genital irritation, pain during intercourse, chronic pelvic pain and urinary tract infections), along with unwanted pregnancies, reproductive coercion, and increased risks of sexually transmitted infections, including HIV infection (Krug et al, 2002). Reproductive coercion can also lead to complex healthcare needs.

FDSV has profound and unique health and mental health consequences for Aboriginal women, as well as substance misuse conditions, self-harm, intergenerational relationship difficulties, guilt, fear, and loss of opportunities in life (FVPLS, 2015).

FDSV is linked to serious and debilitating health conditions in the lives of victims. Some health conditions, such as eating disorders, require early intervention and specific/intensive therapeutic care.

There is a need for increased training of general practitioners to identify the presence of family violence and greater collaboration between health services to treat these problems. Pregnancy also represents a key risk point for FDSV (AWAVA 2018), and reproductive coercion can be part of a victim/survivor’s experience. Reproductive coercion defines:

a range of male partner pregnancy-controlling behaviours. These behaviours can include birth control sabotage, threats and use of physical violence if a woman insists on [condom use] or other forms of contraception, emotional blackmail coercing a woman to have sex or to fall pregnant or to have an abortion as a sign of her love and fidelity, as well as rape ... [evidence indicates] that women from CALD backgrounds are over-represented among women subjected to reproductive coercion, with up to one in five CALD contacts reporting this form of abuse (AWAVA: 38-39).

Problematically, women affected by FDSV may face difficulties in accessing health care, due to the surveillance and control of violent perpetrators. The following case example highlights how women cannot access health services when they are trapped in a family violence situation.



Case Study: Anonymous

The client had a new baby, and the perpetrator forced the client's early discharge from hospital, against the doctor's advice. The client had stitches to her abdomen and had been advised to be very cautious. The perpetrator knew this and deliberately kicked the client in the abdomen, resulting in her temporary paralysis of her lower body. The perpetrator refused to allow the client to see a medical professional in relation to her injuries. Days later, the perpetrator dragged the client out of the house by her hair. A neighbour called the police, the perpetrator then went inside and grabbed a knife and inflicted wounds on himself. The police arrested the client, having mis-identified her as the predominant aggressor. The infant was removed from her care. The matter ended up in court for criminal proceedings. However, the magistrate involved was a specialist family violence magistrate, who ordered police to immediately bring the baby to court and to provide further evidence that the wounds sustained by the perpetrator were 'defensive' as claimed. Despite claiming the client was suicidal and a risk (invoking tropes about women's mental health/hysteria), the police were unable to tender the evidence to court to substantiate the charges, and as such they withdrew the charges. The baby was returned to the client's custody and the perpetrator was excluded from the home and not permitted to have access to the baby.

Cited in Ulbrick, 2020: 167-168.

In addition to highlighting how access to healthcare can be inaccessible for victims of FDSV, this is an example of how a skilled magistrate with a deep understanding of gender and FDSV was able to provide a good outcome for the victim. It also highlights the inadequacies in police understandings of the same.

Trauma-informed training, and training on the complexities of FDSV, would enable 'issue spotting' by a broader range of professionals, such as health and allied-health professionals, ensuring early intervention and efficient and appropriate referrals.

This section reiterates that these wide-ranging issues are attributable to gender inequality and have gendered dimensions that are poorly understood across a wide range of services and sectors. It shows how the health and housing impacts can create barriers to leaving a violent relationship.

Recommendations: Term of Reference D

Housing shortfall

Good Shepherd recommends that the Australian Government:

27. Commission a review via the Women's Safety Council of the safety and effectiveness of current crisis accommodation responses and models. Specifically:
 - a. Investigate the communal refuge model across Australia with the view to its removal;
 - b. Investigate the barriers that particular groups of women experience to gain access to refuges (including women with a disability, criminalised women, women on temporary visas and women with male adolescent dependants) with the view to investing in approaches which remove these barriers.

28. Support states and territories to significantly increase investment in social housing and responses to homelessness. Specifically:
 - a. Increase the stock of affordable, accessible and social housing;



- b. Strengthen diversified and expanded crisis housing options, including specialist women's services and specialist youth accommodation.
- c. Invest in wrap-around support required to enable women and their children to remain in their own homes; including improving the availability of accommodation for perpetrators who are removed from the home—this will ensure ongoing safety of women and children in their homes;
- d. Provide dedicated funding to assist those experiencing or at-risk of experiencing homelessness to move into stable housing.

Health Impacts

Good Shepherd recommends that the Australian Government:

29. Reproductive coercion is included in nationwide understandings and definitions of FDSV—including both at a legislative and policy levels.
30. Support states and territories via the Women's Safety Council to invest in institutionalised approaches which ensure all health and allied health services and professionals are fluent in the identification and response of FDSV.

5. A coordinated/Multi-disciplinary approach

Term of Reference C: The level and impact of coordination, accountability for, and access to services and policy responses across the commonwealth, state and territory governments, local governments, non-governments and community organisations, and business.

Guiding any approach to preventing all forms of violence against women should be the recognition that FDSV is complex and requires an integrated and coordinated approach. A coordinated approach involves professional collaboration – and a sharing of practice approaches and priorities. For instance, health, allied health, and justice professionals play significant roles in identifying and intervening in FDSV – and providing an integrated, consolidated intake point. An integrated approach to FDSV reduces the burden on victim/survivors to navigate a fragmented service system, where they may find themselves ineligible for services they approach, while telling their story repeatedly.

There is a lack of consistency and coordinated responses across Australian state and territory jurisdictions in the response to FDSV. As AWAVA (2018: 54) explains, “this is manifested through [inconsistent] policy and legislation as well as through working in ‘silos’. Stronger structures for coordination ... need to be developed”.

The structures of coordination and integration must be underpinned by the guiding principles of the safety of women; the accountability of perpetrators; and the agency of women.

5.1 A continued lack of coordination and collaboration.

If anything, when it comes to prevention, what we see is clients being bounced through different agencies and services. So, we don't pick up on everything we need to pick up on. The 'one-stop-shop' is not working in practice. A client will be referred from one agency who might be working with four others in the areas of: children support, housing, and family violence counselling. So, a lot of us end up doubling up on the work that has already been undertaken. We need a much more collaborative approach, and more co-located services. This would create a smoother, less stressful process for everybody.

Good Shepherd Practitioner.



Good Shepherd asserts that the prevention of all forms of FDSV is everyone's responsibility. We advocate for a nationally consistent, coordinated approach that extends beyond police, courts, and corrections, to better include health, allied-health and education professionals (e.g., GPs/maternal child health/obstetrics/refuges/legal services/schools) in the identification, early intervention and prevention of family violence. Such an approach would mean that whatever entry point a victim/survivor comes into contact with is the right one, acknowledging that the way a survivor heals is often linked to how their abuse is handled.

FDSV frequently involves other social, legal and mental health issues, such as substance misuse, child protection involvement, criminal proceedings and poor mental health. These factors require a multidisciplinary approach in order to properly address the underlying cause/s and meet the service needs of the individual/s. However, our practice experience suggests there are very limited multidisciplinary services available in the community, and of those that do exist, there is limited collaboration between services. Furthermore, there is a tension between preferred approaches to support, which are not consistent across services. As our practitioners identified:

There is a lack of collaboration and a lack of multidisciplinary dual diagnosis⁵ services for women, and they are difficult to access for both victim/survivors and perpetrators. We've seen a lot where victims cannot do therapy unless they have the stability required to get a good outcome from therapy. They can't get drug and alcohol help unless they get mental health help. We see this a lot in 'RAMP' (which is the Risk Assessment and Management Panels in Victoria). You can sometimes have someone who goes into detox for 7-19 days and that is then meant to be followed up straight away with rehabilitation but they will be waiting 2-3 months and by then, they will have relapsed. Those issues are systemic, not specific to family violence but the impact on people experiencing family violence is another layer. Some services are hesitant to work with people who are living with family violence, and will tell the victim to go to a family violence service when what they need is mental health support, so victims are being bounced around service systems with very little collaboration. We need to get better at integrated service delivery and we need more of a multidisciplinary model.

Good Shepherd Practitioner.

Delays in treatment for substance misuse conditions is a systemic failure and can contribute to further experiences of violence and abuse, and an overall lack of safety for vulnerable children. As our practitioners have highlighted, there is a need for a multidisciplinary, collaborative model that is underpinned by a framework of trauma-informed care. This is particularly important where child protection is involved. In this respect, our practitioners spoke of a lack of integrated work between child protection and family violence services, which often results in a punitive response to mothers whereby they are held accountable for the violence perpetrated against them and their children:

There is very little collaboration between child protection and family violence services. It's almost like they make a referral and its like ticking a box. There will usually be ongoing court processes and women are often ordered to engage with family violence services, but if child protection worked with us more around safety plans and alongside the woman, it would be less making her accountable for the family violence and what children are experiencing and holding the perpetrator to account for his violence. There is a real lack of

⁵ Dual diagnosis services refer to services which have the capacity to address more than one intersecting issue, such as mental health and substance misuse.



care team meetings. It's really quite terrible the lack of joint work going on. We need collaboration between child protection and family violence services.

Good Shepherd Practitioner.

It has similarly been identified in Aboriginal communities, that there is an urgent need for a community-led, multidisciplinary, wrap-around model (Braybrook, 2015).

Our main contention is that the integrated, multi-disciplinary approach needs to be perpetrator focused. All services within the wide-ranging integrated model must be supported and trained to focus on perpetrators. However, there remains “no mechanism to coordinate primary prevention initiatives across Australia” (AWAVA, 2018: 10). Consequently, it is not possible to identify gaps or track progress across services in individual state and territory jurisdictions, let alone nationally.

5.2 A coordinated approach to support

Good Shepherd asserts that the principles of a coordinated approach to FDSV support must include:

1. A Shared understanding by all stakeholders on what FDSV involves – including the complexity detailed within this submission.

It is apparent in our work with victim-survivors that there are wide-ranging understandings about what FDSV involves, including approaches toward who is protected, when and how. The absence of a shared understanding by all stakeholders interfacing with FDSV is challenging and has the potential to result in delayed and ineffective responses. Bolstering widespread understandings about what FDSV involves, including specific manifestations which co-occur and are not readily understood is paramount to overcoming this challenge.

2. Development of mutual respect and space for the various perspectives and priorities that are present for multi-disciplinary professionals.

It is our experience that different disciplinary approaches that are currently involved in responding to FDSV are not in concert with each other. Our practice in delivering services in both family violence, and family services, has illustrated that there is an absence of an integrated approach to working with women and their children. There are fundamental differences in the theoretical and philosophical approaches to this work which must be addressed to ensure consistent, effective and efficient responses.

3. Institutionalised capacity building, including at basic training level.

It is necessary to consider the ways in which universities and other tertiary education institutions can support the development of the workforce responding to FDSV—both specific to specialised services, and extended to other frontline responders who may interface with the issue. It is our experience that human services degree qualifications do not have any pre-screening processes; and there is pressure from a workforce capacity perspective to ensure a high number of graduates who are qualified to work in the sector are provided with the opportunity to do so. It is essential that in equipping the workforce to respond to FDSV that considerations are made with respect to suitability. Furthermore, dedicated, mandatory curriculum with respect to FDSV must be embedded into the curriculum of all professions which are likely to encounter the issue—including but not limited to: community services, social work, psychology, counselling, education, law and medicine.

4. Be victim/survivor led.

Whilst there are examples from Victoria where victim-survivor consultative mechanisms have been enshrined in both government and sector decision making, this is not standard practice nationally. Genuine and embedded approaches for victim-survivors to lead in the development of responses to FDSV must become business as usual for corporates, the community sector and government.



These principles ensure that whatever model is adopted to support coordination, whether services are connected with them formally or not, the approach for victims/survivors is consistent and not repetitive. Listening to the experiences of victims/survivors and the ways in which the fragmentation of responses has impeded their access to services, is critical. The experiences of victims/survivors is invaluable evidence, key to ensuring that we move towards an approach that centres victim/survivor experiences, and, that leads to efficient responses.

Failure to engage in a coordinated approach increases the risk of 'systems trauma', which compounds pre-existing trauma for victims/survivors of FDSV. Victims/survivors are unable to establish safety if they are required to retell their story over, and over. Beyond this, it is also about the systems failing victims/survivors through the persistent siloing and their inability to communicate. This has the effect that key details and opportunities for intervention at a critical point are missed, undermining the effectiveness of service delivery. Delays in recovery can also lead to secondary trauma.

The national approach is not meeting the safety needs of victims/survivors in its current form, and Good Shepherd urges further monitoring and evaluation of the hubs before adopting this initiative as a best practice model nationally.

Good Shepherd asserts that the idea of coordination is beyond just practical; if we can get the response right at the first disclosure of family violence for a victim/survivor, the longer-term implications of that violence are reduced. A truly integrated and coordinated system would enable a victim/survivor to work through their trauma without it being compounded by the systems they interact with. Therefore, there is a greater opportunity of health outcomes being increased, and less of a drawn-out process of the physical impacts of trauma on the body.

Good Shepherd is of the view that a model for education health professionals and other service providers who are frequently the first point of disclosure for victims/survivors of FDSV should be developed. The model should be victim/survivor led, trauma-informed, and should recognise the complexity of all forms of FDSV.

We also assert that the existing maternal child health system needs to be strengthened to better support early identification and intervention for families. This can be achieved through workforce training and increasing case work capacity to enable additional visits for at-risk families.

Our practitioners identified that there are challenges with the current practice approach aimed at coordinated service delivery; including a lack of consistency with people being able to access support and having to retell their story through the court and other service systems. This is a failure of the theory of wrap around support, and the notion of a 'one system, one entry point' targeted response.

As one practitioner observed, in the context of youth sexual violence:

There is no coordination or collaboration. You end up with the parent with one counsellor, the child with another counsellor, and usually for our service we are also working with all other components of the family in terms of family violence. So for us, it is really resource intensive for the amount of funding we receive into that program. In terms of the sexual violence sector as a whole, particularly for youth and children, there are some huge gaps. Lack of services, and lack of integration is the major gap. We are receiving referrals outside our catchment area due to the sheer lack of services that exist. There was another service but it was defunded a few years back, and the other services that could provide services in this area are just such small teams, and they only work a few days a week, so there really aren't any services for young people experiencing sexual violence.

Good Shepherd Practitioner.



The overall lack of coordination, integration and interagency collaboration in the FDSV sector is consistent with research by Fitz-Gibbon et al (2018), who emphasise the importance of an integration approach in terms of mitigating and minimising the distinct risks children face when subjected to family violence.

Research by Fitz-Gibbon (2016) on intimate partner homicide similarly found that often in cases of intimate partner homicide, the victim had had prior contact with multiple services but that this did not translate into effective interventions to secure women's safety and prevent the escalation of violence.

According to then State Coroner, Ian Gray, who led the Inquest into the family violence death of Luke Batty (2015: 105), the need for integration and coordination is underscored by the need for "dynamic, collaborative, comprehensive and up-to-date" risk assessments.

Coroner Gray placed importance on the need to develop effective risk assessment and information sharing protocols as a basis for effective early interventions. Based on our practice experience, we are not confident that effective risk assessments and sharing of risk information are being done.

A coordinated approach requires nuanced understanding of risk, especially in relation to how risk intersects. According to Ulbrick (2020), there is a need for a risk framework that takes into account the intersecting axes of oppression in risk assessment. Based on the findings of research by McCulloch et al (2015) into Victoria's common risk assessment framework, reinforced by the experience of our practitioners, it is imperative that:

- Clear protocols are developed for information sharing and risk assessment that create accountability for all relevant legal and non-legal actors;
- Approaches to risk assessment be dynamic insofar as being regularly monitored, evaluated and updated as understandings around risk evolve;
- There be ongoing training for all service providers on: how, when and how often to do risk assessment; how to document risk assessment; as well as when and with whom to share the information;
- Family law practitioners, and judicial officers, be supported to understand and assess family violence risk, in order that early disclosures and escalating risk be identified and appropriately and efficiently responded to;
- Victim/survivors be recognised as the most reliable indicator of the presence and level of risk in their lives.

Good Shepherd asserts that immediate action is required in the area of a nationally consistent approach to risk assessment.

There is a need for reforms to focus on enabling family services, specialist family violence services, community-based and statutory Child Protection to work in a much more connected way to collectively manage the risk posed to children's safety and wellbeing. As reflected by our practitioners earlier, "there is limited collaboration between Child Protection and specialist family violence services" (Good Shepherd Practitioner). Good Shepherd further highlights the need for increased collaboration between Child Protection and schools and explains how this cannot be met without significant increased investment in Child Protection:

Child Protection have a really important role to play in terms of the shared management of family violence with schools. Child Protection needs about four times as much funding as they have, they are desperately underfunded. Consequently, they have no capacity to deal with the most vulnerable people, so no one is kept safe anymore. For example, people could be really unsafe but still placed as low on the priority list for Child Protection because the high-risk cases and caseloads are so enormous. This means that families who would by any other metric be identified as high-risk are falling through the cracks and no intervention happens. This is such a big issue. On top of that, about six months ago, the



Child Protection sector lost significant funding, and it was bad even before that, so now we make Child Protection reports with the expectation that the case will be closed. Where it is allocated, the case worker has limited capacity to action agreed interventions to keep families safe. This is even with cases involving children under two-years of age – they aren't even able to be prioritised. Babies have no capacity to keep themselves safe and that still goes without action – even with little babies who you would think would instantly be made high-priority are not able to be addressed.

Good Shepherd Practitioner.

5.3 Strengthening integration and coordination in the legal and criminal justice systems

5.3.1 Police responses

Police play a significant role on the frontline of FDSV. An effective and integrated police response is critical to keeping women and children safe. Whilst that have been some gains in Victoria following the Royal Commission into Family Violence, our practitioners have reflected that there is not consistent practice across state and territory lines; and there is a divide between policy and practice. The policing system is not working in coordination with the other systems victims/survivors interact with, and there remain competency and practice issues that must be addressed urgently if we are to meet victims/survivors' safety and justice needs.

Good Shepherd practitioners identified gaps in police understandings in relation to adolescent perpetrated FDSV:

To them, in the context of family violence it is like routine work. They are called out all the time for family violence incidents. I wonder about their understanding around adolescent violence towards parents or carers and being able to navigate those complex relationships when applying for intervention orders where young people are involved as perpetrators. Especially in terms of trying to maintain relationship between the young person perpetrator and the affected family member, while also keeping people safe. I don't think they have a good enough understanding of the complexity of FDSV.

Good Shepherd Practitioner.

It is our practice experience that specialist and generalist services, including police, are not resulting in responses that secure women and children's safety. A lack of response to initial disclosures of violence continues to be a problem, whereby an escalation in violence appears to be necessary before steps are taken by relevant agencies and services.

Good Shepherd practitioners also observed that the police accountability measures that do exist are not being given effect in reality insofar as police are not properly understanding the Code of Practice for the investigation into FDSV:

There is some poor practice among police. For instance, when police are called out to do welfare checks because neighbours have reported family violence, the police will come out and just speak to the family unit as a whole. So, of course, no one from that family unit reports anything. The woman and/or children may not feel safe being questioned in that situation, so they won't disclose anything.

Good Shepherd Practitioner.



They are not understanding their own code. I've had cases where the family is living in a one-bedroom unit and the police just put the perpetrator in one corner and the victim/survivor in the other. So they're not actually separate and apart at all – the perpetrator is standing a couple of metres away and can hear everything. There was another case where the father was violent to his daughter and police came over and did a welfare check but only spoke to the father. Then they went and spoke to the young person and reprimanded her –they came at the situation from the standpoint where they believed the male party and allowed him to justify why he had assaulted his child. The young person was just standing there on the street, with bruises on her, horrified. The public dressing down by police happened on the street – and it was *physically obvious* that she had been assaulted. So that just inspires no confidence, if they're not even responding in situations where there is physical evidence. What's worse is that, if the safety plan for the victim/survivor of FDSV is to call police, and in this case the young person had and they had yelled at her, then that is a lifelong lesson in the young person's formative years, which entrenches distrust in police. It really perpetuates that.

Good Shepherd Practitioner.

There is a need to integrate family violence and sexual violence responses. We believe that greater integration will enhance understanding within the police service of sexual violence perpetrated by an intimate partner or a family member. In terms of police responses to young people who have experienced sexual violence, our practitioners reflected that there is still a long way to go:

When young people make a disclosure and are asked to make a statement to police, the experience is deeply traumatic. The biggest reason is the lack of understanding of FDSV. To give you an example, I've witnessed police not actually understanding female anatomy, so when a young person is trying to describe what's happened, the police are getting the anatomy incorrect, and that is distressing for the victim/survivor to have to interrupt her narrative to explain to the officer, "no I wasn't touched there, it was there". This establishes a huge lack of trust implicit in that interaction. Beyond that, the ways police fail to understand the impacts of FDSV – it's really complicated. They often use minimising language like, "he didn't *just*", or "it wasn't *really* rape" and it's like, "oh no, it was". So the young person is really having to justify to the police their victimisation. There is a lot of setting up involved in police interviews too. The victim/survivor might be interviewed by one detective who might say, "do you know how serious it is to make an allegation of rape?" Meanwhile, the other might say, "this is really important". There is also the stopping and starting of interviews, with no gentle introduction, the police just have no idea what it is like to have to retell your story. When police stop and start interviews to go and deal with other matters, the young person might have dissociated during the first part of the interview, so we as practitioners have to interrupt the police and reorient the young person. I don't think they necessarily intend to be harmful, I just think they have no idea. The consequences for the young person are not just about making the statement either, the impacts are much broader, there is court, where the pressure is problematic.

Good Shepherd Practitioner.

It was emphatically agreed among our practitioners that police would benefit from training on gender and its relationship to FDSV, training on the complexity of FDSV, and training that is trauma informed. This echoes the findings of recent research, in which judicial officers attributed the lack of understanding on these issues to the poor quality and lack of training:



I think we need to train police better, and increase consciousness of economic abuse and gender, get them to look for it and ask questions about it – and use the approach taken in the context of child sexual offences. Because that was the problem in that context too, the evidence is isolated from all the other contexts, which is often quite chilling. And that’s the problem here too – the evidence is isolated. And I just wonder whether if you had training for police of that kind – that would be an interesting idea, I think (Ulbrick, 2020: 147).

Notwithstanding these issues, Good Shepherd acknowledges the challenges for police in recognising the complexities of FDSV, and we have observed some good practice during the lockdown restrictions:

The one beneficial thing that has happened during the pandemic is that neighbours have been calling police, and some of the referrals we have seen have been from police as a result of an incident reported by a third party. That is really promising to see an increase in bystander intervention. Police have also been doing some really good work in some areas – at least some of them – making sure they were checking in with families they knew to be at-risk and really working towards safety in those cases.

Good Shepherd Practitioner.

5.3.2 Strengthening integration and coordination in the family law system

The overwhelming majority (85%) of family law matters in Australia involve family violence (WLSA, 2020). Based on our practice experience, more work remains to be done in relation to early identification of FDSV in family law matters. Critical to the success of an integrated, multi-disciplinary response to FDSV, is timely access to several forms of highly specialised legal help across intersecting jurisdictions.

We endorse the recommendations made in the Australian Law Reform Commission (ALRC) Final Report and urge their immediate implementation. The ALRC Inquiry represented the most comprehensive review of the FLA in four decades.

We support the introduction of an integrated and coordinated family violence court model and failing that, we support the introduction of specialist court pathways and a specialist family violence list, to deal with high-risk family violence matters.

Our practitioners stated that the family law system is ‘not family violence focused’ and that it fails to understand the connection between gender inequality and family violence. Similar observations have been made in recent research, which suggest that not only does the family law reflect gendered understandings but it “also likely generates those understandings”, failing to challenge social norms and conditions (Galloway, 2017: 167).

According to our practitioners, this often has significant adverse – even dangerous – outcomes for women and their children:

There is definitely not enough understanding – across the board – of how gender relates to risk. The policing and legal systems, especially the family law system, are the main areas that need a lot of work. They are patriarchal systems based on authority and are very reliant on who is hearing the case as to what the outcome is.

Good Shepherd Practitioner.



The reality of this is exemplified in the following case study:

Case Study: Anonymous

There are so many issues with the Family Law courts. Family law courts and magistrates should by now be acutely aware of family violence and coercive control, and, children being direct recipients of that coercion and emotional, psychological violence. Yet they make orders that, although restrictive in a lot of ways, are open enough for the coercion to continue. A recent example of this was where the father was not permitted physical contact with the children, by court order, but was allowed to give gifts and send emails – there was no restriction around this type of contact. The father in this case had been sexually violent to one of the children and physically violent to the other. He was writing highly emotive and completely inappropriate grooming emails, destabilising the child’s memories.

It was really harmful. The impact of this was so significant but because there is no specific guidance from the courts about what communication should look like, it was in effect not contravening the court orders. It is a child protection issue, but due to the limited casework time for this category of young person, the young person was not able to be allocated a caseworker. So, the onus was on the child, because the mother was – by court order – not allowed to interfere. So, it was the female child’s responsibility to either choose not to open the emails, or choose not to respond, or to advise her parent about what she is or is not comfortable with. And she is 12 years old. That is developmentally parentification by the system of a 12-year-old because we are having the expectations on her to speak out directly to her perpetrator, her father, who has been sexually violent towards her. The other issue is that independent children’s lawyers do not have specialised training in trauma, so they are working with kids in a way that is not trauma informed and that is really not good enough.

Good Shepherd Practitioner.

The above excerpt emphasises the importance of nuanced understandings of gender and risk. It highlights the crucial need for all practitioners working in the family violence and family law systems (and all systems that intersect with these), to receive trauma-informed training, and to be attuned to the ways that gender inequality enables coercive control and how this creates high levels of risk for women and children. This case study also points to the need for specific and detailed guidance about what constitutes appropriate communication, and precisely what communication is permitted within individual orders made by the Family Court, so that contraventions can be reported.

The above case study also illustrates the way that technology facilitates abuse, and the need to expand understandings around the potential for exploitation and abuse of technology, as technology advances and our reliance on technology for contact and connection increases.

A further issue highlighted by our practitioners, was the need for the presumption of equal shared parental responsibility to be removed from the *Family Law Act (1975)* (Cth) (hereinafter ‘Family Law Act’). Pursuant to s 61DA of the Family Law Act the presumption is that in the making of parenting orders, parental responsibility – that is, the making of decisions involving a “major, long-term issue” concerning a child’s care, welfare and development (s 65DAC) – will be shared jointly by parents.

However, the presumption has resulted in widespread misunderstandings around the nature and operation of the presumption, which in our practice experience, frequently lead women experiencing family violence to accept an arrangement they do not believe to adequately protect themselves or their children. The presumption of equal and shared parental responsibility has created a misunderstanding that this means ‘equal time’ spent with children, and as such, it fails to safeguard against risk.



As our practitioners explained that the presumption is a mechanism of control often misappropriated by perpetrators, noting also that:

The presumption creates fundamentally unsafe arrangements for women and their children, and women may feel coerced or pressured into agreeing to these arrangements to avoid further violence.

Good Shepherd Practitioner.

As others have argued, the presumption of equal shared parental responsibility in family law shifts the focus of decision makers away from child safety and the best interests of children (WLSA, 2020).

The presumption also incentivises perpetrators to litigate their 'rights', which often entails legal systems abuse. This has been directly observed by our practitioners, who have observed evidence of legal systems abuse enabled by the shift in court procedure.

According to our practitioners, violent perpetrators are reportedly abusing legal processes under the cover of COVID-19, in terms of failing to appear (under the new procedure), as well as failing to return children and using COVID-19 as justification (e.g., by suggesting the children will contract the illness if they are returned to the mother) (Good Shepherd Practitioner).

Removal of the presumption from the Family Law Act has been consistently recommended by experts and practitioners, including in the ALRC Inquiry in 2019, and the comprehensive parliamentary inquiry in 2017. Good Shepherd endorses the recommendation that the presumption be removed.

The relationship between gender inequality and risk of violence, particularly in terms of women and children who are financially dependent on the perpetrator, is still not well understood. Good Shepherd is also of the view that ongoing and updated multi-disciplinary training on these issues is required for all practitioners working across the wide-ranging FDSV, including police, duty lawyers and private practitioners, and judicial officers.

We draw attention to and reinforce the recommendations of our sector colleagues at Women's Legal Service Victoria (WLSV) who are practice leaders in the areas of family violence law, family law and early dispute resolution. We urge the Inquiry's careful attention to their submission in relation to strengthening legal system responses to family, domestic and sexual violence.

Specifically, we endorse WLSV's recommendation around building capacity of practitioners to screen for legal needs across the range of jurisdictions that family violence victims/survivors commonly encounter and refer appropriately for legal assistance. As WLSV (2018: 6):

From our experience in working with community health and welfare practitioners the identification of legal need by non-lawyers provides for early legal intervention. The WLSV Critical Legal Issues Map was developed in 2011 and has been used by non-legal practitioners in Victoria to identify critical legal issues and refer for urgent legal help across family violence law, family law (children and property), child protection law, finances, housing, and victims of crime assistance.

Given that the mean number of legal problems for victims/survivors of family violence is 20, compared to 2.4 for people not affected by family violence (NSW Law Foundation, 2019: 10), Good Shepherd urges consideration to developing a national 'Critical Legal Issues Map', based on WLSV model (to minimise duplication of existing resources). This would enable effective and early identification of the cluster of intersecting legal issues that people experiencing family violence encounter.

Good Shepherd direct the Inquiry to WLSV's submission, which discusses in detail the range of safeguards and protections required to improve the response to FDSV in the family law system and reduce potential trauma to victims/survivors of FDSV.



Good Shepherd asserts that improved information sharing and integration/coordination across the family law and intersecting FDSV sectors will enhance risk assessment and risk management.

There is a strong need for improved training for judicial officers and professionals working with families experiencing FDSV, including independent children's lawyers and family report writers, as well as interpreters, on the complexity of FDSV. This training must include cultural competency for those working with First Nations families or people from CALD backgrounds.

Good Shepherd is also of the view that strengthened and integrated legal responses to sexual assault are required. Recent statistics reveal the worst statistics on sexual violence in a decade, despite reductions in reporting rates (BOCSAR, 2020).

Recommendations: Term of Reference C

Continued lack of coordination and collaboration

Good Shepherd recommends that the Australian Government:

31. Support states and territories via the Women's Safety Council to prioritise the continuous development of a functional, integrated and coordinated FDSV system, with a focus on shared risk assessment, management and information sharing. Additionally, focus should be given to:
 - a. Sustaining a skilled workforce;
 - b. Funding ongoing data collection and research
 - c. Developing a nationally consistent approach to child protection practices which identify and assess FDSV risks; understand the complexities of FDSV; work in collaboration with other services, including schools
 - d. Investing in statutory children protection systems and frameworks to meet the challenges of maintaining food practice whilst responding to critical demand pressures, in multi-disciplinary environments;
 - e. Ensuring that governance of the integrated and coordinated FDSV system is informed by specialist knowledge and practice frameworks.

Coordinated approach to support

Good Shepherd endorse recommendations made by AWAVA (2018:10), with a particular focus for the Australian Government to:

32. Invest in cross-jurisdictional coordination of primary prevention across Australia.
33. Commit to a national monitoring and evaluation framework aligned with the National Action Plan to Reduce Violence against Women and their Children, including:
 - a. Funding an independent body to monitor progress against this framework.
34. Support states and territories via the Women's Safety Council to ensure ongoing and sustainable funding of specialist women's services.
35. Support states and territories via the Women's Safety Council to develop workforce capability across all sectors—public and private—who are likely to interface with FDSV.

Police responses

Good Shepherd recommends that the Australian Government:

36. Develop a nationally consistent police Code of Conduct for the investigation into FDSV, which includes practical examples to assist police in identifying wide-ranging forms, and complexity of FDSV.



37. Embed continuous, trauma informed training, provided by FDSV specialists, of all police members on the complexity of FDSV, the centrality of gender and FDSV—this requires national coordination to ensure consistent standards across all state and territory jurisdictions. In particular:
 - Police require training on how to ask questions about economic abuse to support effective and efficient placement of intervention orders;
 - Further emphasis must be placed on sibling-on-sibling sexual violence and adolescent perpetrated family violence.
38. Establish a national independent statutory authority to monitor and evaluate performance and cultural change on the policing of FDSV.
39. Support states and territories through the increase of funding to additional judicial officers to meet the rising demand in the family violence intervention order lists: focus should be on First Nations and CALD appointments to address the underrepresentation of these groups.

Strengthening integration and coordination in the family law system

Good Shepherd recommends that the Australian Government:

40. Immediately remove the presumption of equal and shared parental responsibility from the *Family Law Act 1975* (Cth).
41. Establish specific, national, information sharing and risk assessment protocols to increase accountability for all relevant professionals (legal and non-legal) interfacing with FDSV matters.
42. Develop a national risk assessment framework for the family law court registry, family lawyers and family dispute resolution practitioners. The framework should:
 - Be multi-method and multi-format;
 - Be Culturally sensitive and inclusive;
 - Provide a mechanism for emphasis on the victim/survivors own assessment of risk—as the most reliable indicator
 - Be supported by appropriate training.
43. Fund the development and provision of trauma-informed and multi-disciplinary professional FDSV training of all judicial officers, legal practitioners and court professionals to understand, identify, efficiently case manage, understand, assess and case manage dynamic risk, triage cases, in order to ensure decisions that are fair, safe and promote women’s economic security.
44. Develop and embed family law learning resources for parties in family dispute resolution, to ensure that parties are well prepared and understand their rights and responsibilities on parenting and financial matters. These resources should be available in different languages in consultation with First Nations and CALD communities.

Good Shepherd endorses recommendations from the ALRC Inquiry with respect to information sharing of family court orders on the grounds that these orders and proceedings are a recognised family violence risk factor; and, the establishment of an independent statutory authority with oversight responsibilities for the family law and broader FDSV system.

Good Shepherd further endorses recommendations made by the Monash Family Violence Prevention Centre in their submission to the ALRC Inquiry, particularly with respect to FDSV identification and response be embedded in the curriculum of law degrees nationally.

We also draw the Inquiry’s attention to the submission and recommendations made by Domestic Violence NSW.



6. Disaster and family, domestic and sexual violence

Term of Reference I: The impact of natural disasters and other significant events such as COVID-19, including health requirements such as staying at home, on the prevalence of domestic violence and provision of support services.

Term of Reference J: The views and experiences of frontline services, advocacy groups and others throughout this unprecedented time.

There is a significant body of international and Australian research on the impact of natural disasters on FDSV (True, 2012, 2013; Parkinson & Zara, 2012; Parkinson 2015). The findings of research indicate that all forms of men's violence increase during disaster. Recent research on economic abuse similarly observed that perpetrators often exploit women's economic insecurity during and in the aftermath of disaster and coerce women to re-commence residing with the perpetrator (Ulbrick 2020). Ulbrick (2020) also found that perpetrators commonly exploit financial aid directed at women and children, as well as damaging property and causing financial detriment to victims/survivors. The impacts of men's violence, including economic abuse, are captured in the following case study:

One of the women – it was really sad. She was just a young woman with a toddler and a baby at the time of the fires. And she said it had been really hard to extract her way out, because he was so violent. And he'd done what they always do – isolate. He'd taken her to another state and it took her a long time to get back to close to where her parents were in Victoria, and she had a house that she was renting, and then the fires came through. And her place of work was burnt out ... so it was gone. Her income was gone, because of the fire.

Then what happened was, she was renting a house, and because housing was in such short supply out there, her landlord realised that he could double or triple the rent. So he evicted her, put the rent up, and got someone else in. So suddenly she's unemployed, and homeless. She received some financial relief after the disaster, and so the ex comes back and says, 'You clearly need some help with the children. I'm their father'. So they move back in together and within a couple of days he started his violence. And really horrific violence. And so she was stuck. She called the police – and what he'd done too, she was a beautician and after the fires she was just trying to make some money by doing weddings and stuff, and he had taken all of her really expensive makeup and equipment and put it in the bath, and submerged it. So the tools of her trade were gone. He also trashed the place. So she called the police and the police said, 'His name's on the lease. He can do what he wants'. Another police officer said to her, 'Oh, a lot of single mums go and live in the caravan park. You could do that'. Totally unhelpful.

And she wanted to move to a suburb on the outskirts of Melbourne because she had relatives there and they were happy for her and the kids to move in with them. She had a job lined up. And she had to go to court to get permission to leave because the father had the right to see his kids every second weekend. And they refused to give her the right to leave.



The same thing happened with a different client, where she was stuck in one of those towns that are quite isolated. She was a professional, and she had the ability to earn some pretty good money if she could leave these remote areas. And of course, her house was really damaged by the fires – the whole infrastructure of the town is gone after that kind of disaster. So she just wanted to move to somewhere closer to the city. And again the courts refused, saying that he had the right to see his kids. Now, the irony of this is that he was actually living in an inner city suburb, and so he could come and go. And she was imprisoned in this remote town. And he ended up chasing her and the kids around the property with an axe. Luckily, he didn't get any of them, but he then killed himself.

Cited in Ulbrick, 2020: 108.

Recent research by Pfitzner et al (2020) has reported that FDSV has increased in frequency and severity during the COVID-19 pandemic. This finding resonates with the comments of our practitioners. While our practitioners observed an immediate drop in referrals, the overall risk to women “has been consistently high and we have been at capacity the entire time” (Good Shepherd Practitioner). While police data from Victoria and NSW indicated no major increase in FDSV during the lockdown restrictions, our practitioners observed the contrary, noting:

Women have been trapped in their homes with the perpetrator, under constant surveillance, and have not been able to access services. They have not been able to attend play group or any of their other usual activities that provide respite from the perpetrator and enable a discreet opportunity to call services. We are just now starting to see women emerge and access services and support, so the level of risk has been much higher by the time they reach our services because of COVID-19. We would normally try to reach women before the risk reaches that level.

Good Shepherd Practitioner.

The COVID-19 pandemic has exposed the impacts of the lack of a coordinated and truly integrated service delivery model, where targeted support has been almost impossible to deliver.

Much can be learned from the pandemic in terms of disaster management. Coordination is essential, as is understanding the complexity and layering of issues that people face, which is crucial to providing targeted and appropriate, culturally safe, and effective service delivery.

We draw the Inquiry's attention to the ground-breaking research led by the Monash Family Violence Prevention Centre and the Australian Institute of Criminology (AIC), which together constitute the most in-depth information on the topic in the world.

Specifically, the AIC (2020: 1) survey of 15,000 Australian women found:

- 4.6% of all women and 8.8% of women in a relationship experienced physical or sexual violence from a current or former cohabitating partner between February and May.
- For 33% of these women, it was the first time they had experienced physical or sexual violence in their relationship.
- One in three women who experienced domestic violence or coercive control said that, on at least one occasion, they wanted to seek advice or support but could not because of safety reasons.
- The survey results reveal that women have experienced very high rates of physical, sexual and emotional abuse during the initial stages of the COVID-19 pandemic in Australia, and many have been unable to seek help.



Research from Powell and Flynn (2020) similarly indicate that rates of image based abuse have risen during the COVID-19 restrictions. They observe:

- Women victim/survivors of image based abuse, in particular, reported greater harms and fear for their safety, as well as experiencing multiple forms of victimisation (Powell & Flynn, 2020: n.p.)
- The eSafety Commission received more than 1,000 reports of image-based abuse between March and May 2020. This represents a 210% increase on the average weekly number of reports they received in 2019. There was also a significant increase in reports following Easter weekend, representing an almost 600% rise on usual reporting figures (Powell & Flynn, 2020: n.p.).

Good Shepherd is also extremely concerned to learn that based on Australian Tax Office (ATO) figures, 500,000 Australians have accessed the early release of their super during COVID-19, with more than a third of this figure under the age of 30. This is likely to have a disproportionate long-term impact on women's economic security and we draw the Inquiry's attention to the significant work undertaken by WLSV on the issue of superannuation and FDSV in their report, *Small Claims, Large Battles: Achieving Economic Equality in the Family Law System*. We endorse WLSV's recommendations in relation to superannuation and FDSV, which are reinforced by the practice experience of our own financial counsellors.

Good Shepherd asserts that superannuation is another area through which victims of FDSV experience coercion and control in the form of economic abuse, or that may provide necessary funds to leave a violent relationship as a result of the structural conditions that render women's greater financially dependent on men.

In relation to reducing the impacts of FDSV in the aftermath of COVID-19, the UN Secretary-General (2020) has urged governments to put women and girls at the centre of their recovery efforts, claiming that the limited gains in gender equality and women's rights made over the decades are at risk of being reversed due to the pandemic.

Post-disaster processes tend to deepen gender inequalities, which in turn heighten vulnerability to violence (True, 2010: 39). Research on disaster shows women are the backbone of the recovery in communities. Putting women and girls at the centre of economies will fundamentally drive better and more sustainable development outcomes for all, support more rapid recovery, and mitigate the impacts of family violence. Women must also be included in the response planning and decision-making as we pave our way towards recovery from the effects of COVID-19.

To this end, Good Shepherd directs the Inquiry to the National Women's Alliances Disaster Recovery, Planning and Management for Women, their Families, and their Communities in all their Diversity position paper (2020); and the Snap Forward Feminist Policy Network: Submission on COVID-19 to the Senate Select Committee (2020)—for a comprehensive overview of gendered policy recommendations for the recovery from disaster, particularly as it relates to FDSV.



7. Audit and Evaluations

Term of Reference K: An audit of previous parliamentary reviews focused on domestic and family violence.

Good Shepherd asserts that the Australian Government should invest in an audit of the previous parliamentary reviews on FDSV and work to implement the sound recommendations made.

Good Shepherd is further of the view that there is a need to strengthen overall evaluation of systems to drive improvement, accountability and outcomes.

As AWAVA (2018: 7) explains:

We need a concerted effort to improve monitoring and evaluation, especially:

- Using evaluations of previous Action Plans to inform the next Action Plan;
- A structured approach with published evaluation plans, consistency of data, involvement of victims/survivors and civil society;
- An independent monitoring and evaluation body.

Policy processes need to be informed across government in terms of impact on gender equality and violence against women. Substantial gender analysis needs to be undertaken to ensure that proposed policies do not create further obstacles for disadvantaged women to live free of violence, particularly in the areas of finances and economics. For example, punitive welfare policies and practices of incarceration reinforce violence against women, and these factors should be taken into account when developing welfare and justice policies.

Sufficient and long-term funding and resourcing is required to ensure the sustainability of efforts to reduce violence against women.

Recommendations: Term of Reference K

Good Shepherd recommends the Australian Government:

45. Establish, fund and implement an independent multi-sectoral monitoring and evaluation mechanism, which incorporates accountability and governance—and which is focused on outcomes. The aim should be to:
 - Improve consistency of data
 - Assess performance and measure success of the system as a whole
 - Provide a mechanism for monitoring and evaluation to be informed by victim/survivor input.



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