

# **Inquiry into Family Violence Orders.**

**Submission by Uniting Vic.Tas.**

**July 2024.**

## **Contact.**

Level 4, 130 Lonsdale Street Melbourne VIC 3000

**T:** 03 9051 6848

**E:** [advocacy@vt.uniting.org](mailto:advocacy@vt.uniting.org)

**Uniting**

## Acknowledgement of country

This submission was written on the lands of the Wurundjeri people of the Kulin Nation. We work in solidarity with Aboriginal and Torres Strait Islander people as Australia's First Peoples and as the traditional owners and custodians of the lands and waters on which we all live and work. We recognise the continuing sovereignty of Aboriginal and Torres Strait Islander peoples over their lands and waters and their inalienable right to self-determination. We offer our respect to all Elders past and present.

## Acknowledgement of lived and living experience

In writing this submission, Uniting spoke with frontline practitioners from across our specialist family violence programs and family services, as well as managers and senior leaders working with people experiencing family violence and clinicians working with those perpetrating violence. Their expertise informs the submission and recommendations contained therein.

We also acknowledge the strength and resilience of victim survivors who have experienced family violence and who have experienced the family law system and family court. Their voices must be centred in the Committee's work and the final recommendations of this Parliamentary Inquiry into Family Violence Orders.

## Uniting's experience

Uniting Vic.Tas (Uniting) is the community services organisation of the Uniting Church in Victoria and Tasmania. We are more than 3,500 employees and 1,500 volunteers delivering over 650 programs and services across the full spectrum of community services, intervening early to help people avoid crisis, as well as supporting those who live life at the margins. Uniting also undertakes research into community needs and advocates for social change to build more just and inclusive communities.

We work alongside individuals and families who often present with complex health and social needs. Some have few immediate or extended family supports, limited material resources, are socially isolated and have intergenerational histories of childhood abuse and neglect, family violence, substance use and mental health concerns.

We provide emergency relief and food programs, alcohol and other drug treatment, mental health support, family services, parenting programs, specialist family violence services, tenancy, housing and homelessness support. We are a child-wellbeing and family services provider and a partner agency in five Orange Door areas across Victoria.

We are also the lead agency for the National Escaping Violence Payment (EVP) program which provided support to over 60,000 individuals across Australia since commencing as a pilot in October 2021. The program was made permanent in June 2024.

# Recommendations.

Responding to the prevalence of family violence in family court	
<b>Recommendation 1</b>	Rebalance the family law system in favour of children’s safety and the safety of adult victim survivors of family violence.
<b>Recommendation 2</b>	The family court recognise that family violence is highly prevalent among families who attend family court to resolve parenting issues.
<b>Recommendation 3</b>	The family court recognise that the family court process itself is a risk factor for escalating family violence and that risk evolves and escalates throughout the family court process.
<b>Recommendation 4</b>	Systems and processes to respond to both the seriousness and imminence of risk in the family court setting be developed, implemented, monitored and evaluated.
<b>Recommendation 5</b>	Existing frameworks be examined with a view to developing a national risk management framework to respond to family violence in the federal family courts that provides consistency in risk assessment and monitoring, allows for greater information sharing across jurisdictions and improves safety for victim survivors.
<b>Recommendation 6</b>	Include family violence screenings for all cases before the family court to better protect children who may be experiencing, or have experienced, family violence and to place the best interests of the child at the centre of family court proceedings.
Recognising children as victim survivors in their own right	
<b>Recommendation 7</b>	Recognise children as victim survivors in their own right in family court settings.
<b>Recommendation 8</b>	Parenting orders prioritise the safety of children and adult survivors of family violence
<b>Recommendation 9</b>	Make provisions for family violence orders to override a parenting order on safety grounds where children have been named in a family violence order.
Evaluating the <i>Family Law Amendment Act (2023)</i>	
<b>Recommendation 10</b>	The Family Law Amendment Act (2023) effective 6 May 2024 be monitored and evaluated to determine if the amendments are promoting the best interests of the child and contributing to improved safety for child and adult victim survivors of family violence
Addressing coercive control and systems abuse	
<b>Recommendation 11</b>	Introduce ongoing access to education and training for judiciary and legal professionals in responding to family violence and providing trauma

	informed legal responses, in particular providing a greater understanding of coercive control and systems abuse.
<b>Improving access to support services</b>	
<b>Recommendation 12</b>	<p>Strengthen access to a range of supports within the family court setting that includes, but is not limited to:</p> <ul style="list-style-type: none"><li>• enhancing linkages with and supports to community services who can provide specialist family violence services to victim survivors throughout the family court process</li><li>• strengthening awareness of and linkages to perpetrator intervention programs to support magistrates and judicial officers in holding perpetrators to account.</li></ul>

# Introduction.

---

Family violence remains a major health and social issue in Australia. Children and families affected by family violence often interact with the federal family law system as well as state systems including police, child protection, specialist family violence and general health and community services. Currently, these systems do not function in a coordinated way and lack mechanisms to share information across jurisdictions, even though such information sharing is critical to keeping families safe from violence and harm.

Family law proceedings should provide an opportunity for the voices and lived and living experiences of victim survivors to be heard, to uphold the best interests of the child, prioritise safety and wellbeing and hold perpetrators to account. However, at the present time, the family law system does not sufficiently recognise or respond to family violence.

We refer to the Committee's work in the 45<sup>th</sup> Parliament and the recommendations contained in the final report of the *Inquiry into a better family law system to support and protect those affected by family violence* and the Australian Law Reform Commission 2019 Report 135 (ALRC Report 135) *Family Law for the Future: An Inquiry into the Family Law System*. We note that since then, there has been some progress, notably the release of the *National Plan to End Violence Against Women and Children 2022-2032* to guide policy action over the next decade.

We also note the recent amendments to the *Family Law Amendment Act (2023)* effective 6 May 2024, and in particular the change to how courts will make parenting orders. The requirement that a court must now make a parenting order in the best interests of the child and consider factors outlined in Section 60CC(2) including: what arrangements promote safety from family violence, abuse, neglect or other harm of the child and each person who has care of the child; any views expressed by the child and the developmental, psychological, emotional and cultural needs of the child are welcome. We also welcome the removal of section 65DAA which had required courts to consider making an order that the child spend equal time, or substantial and significant time, with each parent, if an order for equal shared parental responsibility was made.<sup>1</sup> We believe these amendments need to be carefully monitored and evaluated to determine if they are meeting the goals of prioritising safety, elevating the best interests of the child and creating a fairer family law system for victim survivors of family violence.

While we acknowledge the recent changes via *Family Law Amendment Act (2023)*, there are still significant barriers in the family court system in relation to protecting and safeguarding women and children who have experienced family violence. Services like Uniting are confronted daily with examples of where the system fails to protect victim survivors, and in some instances, where the system perpetuates further harm.

Uniting prefaces our submission and recommendations with the acknowledgement that we approach this inquiry and these issues from a therapeutic lens, not a legalistic framework. Our submission is informed by the practice wisdom and expertise of frontline family violence clinicians and therapeutic practitioners, many of whom have decades of experience walking alongside victim survivors of family violence. While we believe this perspective is valuable, we urge the Committee to consult widely with community legal services, women's organisations, specialist Aboriginal Community Controlled organisations and legal services and specialist programs supporting people from culturally and linguistically diverse backgrounds including refugees and asylum seekers. Furthermore, the needs of the LGBTIQ+ community in the family court setting must be considered. We urge the Committee to carefully consider the recommendations from these communities to ensure we have a family law system that is safe for all.

---

<sup>1</sup> Family law changes from May 2024 *Fact sheet for family law professionals*  
<https://www.ag.gov.au/sites/default/files/2024-06/family-law-amendment-act-2023-factsheet-for-professionals.PDF>

# Addressing the terms of reference.

---

## 1. The risk of an escalation in the aggressive and violent behaviour of the perpetrator and heightened risk to the partner and children during family court proceedings

Uniting family violence practitioners report that there is a significant risk of escalation in the abusive and violent behaviour of the perpetrator and heightened risk to the affected family members (typically the mother and children) during family court proceedings. They emphasised the dynamic nature of risk and the way in which risk can be heightened by system barriers during family court proceedings and throughout the family law system in general.

Our practitioners cautioned against examining risk within the family court process in isolation of the perpetrator's broader pattern of family violence. They stressed the importance of understanding and having access to information about the perpetrator's previous patterns of coercive control and violence and the risk that was present before the commencement of a formal court process. This, they argue, is an important indicator of the risk of escalation throughout family court proceedings.

*We often start to see the risk **before** you get to the family violence orders. Things start to escalate in the home and someone, typically mum, reaches out for support. That's when we start to see heightened responses and risk. So, it's before the formalised processes happen. That's where the education is so important as to where to go and what their rights and what they can do.*

*I think it's that step before the family violence order that it's such a grey area and sometimes it's just overwhelming. Like people will just say I just can't do it. I can't. I can't step into that space. So, then they need to know, what are some other options as well." Senior Manager, Uniting.*

The risk in the pre-judicial setting when a victim survivor is planning to leave a violent relationship or has recently separated from a violent partner is well-documented as an evidence-based risk factor for the victim being killed or almost killed.<sup>2</sup> MARAM (the Multi Agency Risk Assessment and Management) is the Victorian family violence framework and a major reform following the *Royal Commission into Family Violence*. MARAM identifies the period where a person is planning to leave or has recently left a violent relationship as a serious risk factor as well as identifying 'imminence' as a factor that increases the risk of family violence escalating in a very short time frame. "Court matters, particularly family court proceedings" is one of the situations identified in MARAM which may imminently impact the victim survivors' level of risk.<sup>3</sup>

Uniting practitioners stressed the ongoing, evolving and dynamic nature of risk in the family court setting:

*"Because of the protracted nature of family court proceedings, risk is always present, if not escalating as you're moving through family court proceedings. If there's any point at which there is a chance that the person using violence is going to lose contact with their children, or have reduced contact from what they're looking for, your risk is increasing. This also means that we see these constant shifts in risk and safety." Senior Family Violence Practitioner, Uniting.*

Our practitioners also spoke of the ways in which perpetrators' notions of lack of responsibility and accountability for their actions as an indicator of increasing risk in the family court setting. For example, a previous breach of a family violence order is viewed as a risk factor for increasing risk. In

---

<sup>2</sup> Family Safety Victoria (2021) *MARAM Practice Guides. Foundation Knowledge Guide*, Victorian Government, Melbourne, p.28.

<sup>3</sup> *ibid.*

instances where this was followed by a lack of action from police or other authorities, it reinforced a belief that the system was not going to hold them to account for their violent behaviour.

Uniting also works with men who use violence. A practitioner working in a specialist men's behaviour change setting reflects on the way risk can escalate as families move into and through the family law system:

*"Sometimes they [the perpetrator] will come into a group you can see a change and increase in resentment towards the affected family member. And that often occurs where there's that financial division through, say, a divorce settlement that may increase risk of physical violence, but definitely increases risk around coercive control and manipulation and using children to get back at their former partner or cause them to agree to some sort of settlement."* Team Leader, Uniting.

A study by Smith (cited in Vlasis and Campbell, 2019) which focussed on men's engagement with the magistrate's court, found that half of the 20 men had significant histories of protracted legal proceedings over many years focusing on their use of family violence; other violence in the community; and regarding child custody matters:<sup>4</sup>

*"For these men, the involvement of courts was generally seen in terms of a 'here we go again' experience, that had no real bearing on pathways towards accountability and responsibility. The sense of being shielded from court-based accountability processes was also a major theme for several participants. This was because their solicitor had conducted matters without the perpetrator being required to appear at Court, as well as through numerous delays and the drawn-out nature of proceedings. Third, for many of the men, court involvement added to their sense of being victimised by the system (that they felt took women's side against men) and by their partner. These themes obscured any sense of the valuable role that courts could play to support men's responsibility and accountability for men's behaviour."*<sup>5</sup>

Uniting's experience is that coercive control is not well understood by family law professionals and judicial officers including variable understanding among magistrates, and that too often the family law system is 'weaponised' by perpetrators against victim survivors:

*"judges aren't always demonstrating an understanding of family violence, coercive control and the use of courts as a weaponised tactic."* Senior Family Violence Practitioner, Uniting.

Furthermore, the protracted nature of family court proceedings can mean that a victim survivor is no longer in contact with support services for case management as they are going through family court, leaving them feeling isolated and adding to the complexity of risk as the women and children are no longer in view of services in the same way they had been previously.

There is a clear and pressing need for the family law system to recognise and respond to the seriousness and imminent risk of family violence in the family court setting. Uniting recommends a review of existing evidence-based frameworks, including the Victorian MARAM, for potential adoption at a national level to support consistency in understanding and responding to risk in the family court setting.

---

<sup>4</sup> Smith cited in Vlasis, R. and Campbell, E. (2019) Bringing pathways towards accountability together – Perpetrator journeys and system roles and responsibilities, RMIT University, Melbourne, p.23

<sup>5</sup> *ibid.*, p.23.



## 2. The current barriers for litigants in the family law system to obtain and enforce FVOs

*"There is a cycle of unspoken violence within our law because our response systems don't get it right and allow harm to continue through the system."* Family Violence Practitioner, Uniting.

Victim survivors face myriad barriers in terms of both obtaining and enforcing FVOs. Our practitioners report that by the time a family reaches family court proceedings, there is often a long and significant history of family violence. However, there is concern that the family law system does not sufficiently recognise the prevalence of family violence among families presenting to family court, or the escalating risk to the victim survivor/s during the court proceedings.

Data from the Australian Institute of Family Studies (AIFS) shows that 85 per cent of parents using the family courts to resolve parenting issues report a history of emotional abuse and over half report physical violence from a former partner. Nearly one in five parents report safety concerns for themselves and/or their children because of ongoing contact with the other parent.<sup>6</sup>

Uniting practitioners identified a range of systemic barriers that impede a victim survivor from obtaining and enforcing FVOs, including that the family court system is:

- overly complex, costly and generally difficult for victim survivors to navigate. Our practitioners reported cases of fatigue and overwhelm among victim survivors navigating protracted court processes.
- lacks information about rights, available supports and what to expect throughout the court process and likely outcomes of court proceedings.
- adversarial and lacking trauma informed practices and frameworks which can lead to reproducing feelings of powerlessness, fear, and uncertainty for victim survivors.
- lacks uniformity in training and educational opportunities for magistrates and judicial officers to continually grow their family violence knowledge and to support the development of a shared understanding, recognition and response to family violence in the family court system.
- used as a form of 'system abuse'<sup>7</sup> by the perpetrator to extend coercive control over the victim survivor.

The development and implementation of a national information sharing framework to guide sharing of information about safety, welfare, and wellbeing of families and children between family law, family violence and child protection systems was a recommendation of the Australian Law Reform Commission, in its *Report 135 Family Law for the Future – An Inquiry into the Family Law System*.<sup>8</sup> Uniting acknowledges that work has commenced to improve information sharing across jurisdictions however, we continue to see instances where families are caught between systems that lack coordination and consistency, and do not communicate or allow the sharing of information that is needed to keep families and children safe:

*"The systems aren't working together. Often if a report is made about the safety of a child with one parent, child protection will not become involved because they believe it will be dealt with by the family court... they will say 'it's in family law court. We're going to let family law court deal with it'. So often when there is a family law court application pending, other systems will **defer** action and say 'It's going to be dealt with in the family law court'"* Manager, Uniting.

---

<sup>6</sup> Australian Institute of Family Studies (AIFS) (2010) 'Key findings from the Evaluation of the 2006 Family Law Reforms', A *Family Matters*, AIFS.

<sup>7</sup> System abuse is defined by Monash University as "systems abuse refers to the manipulation of the legal system by perpetrators of family violence, done so in order to exert control over, threaten and harass a partner (current or former). Systems abuse most often takes place post-separation"

<sup>8</sup> Australian Law Reform Commission, Report No 135 (2019) *Family Law for the Future – An Inquiry into the Family Law System*.



The language used in court settings is often inaccessible to the victim survivor and it can be difficult for people to understand the outcome of an FVO application with magistrates not always explaining the outcome clearly:

*"The language is not inclusive to all and [the court setting] moves quite quickly with the intervention orders. Clients are often confused about the outcome because the magistrate doesn't always take the time to explain things to them or ask if they have any questions, particularly if they come from a culturally and linguistically diverse background. It's incredibly difficult for them to understand what's going on."* Family Violence Practitioner, Uniting.

For victim survivors from a culturally and linguistically diverse background, there is a critical intersection with migration law and perpetrators will use visa abuse<sup>9</sup> or the threat of taking the children overseas and not returning to Australia.

Reporting of breaches is difficult and time-consuming requiring victim survivors to attend a police station and make a statement as well as provide detailed evidence of the breach. This is required each time a breach occurs. This is made worse when there are instances of reported breaches not being taken seriously, compounding risk:

*"In my experience, and I've done a lot of after-hours work and it's the newbies [new police officers] that are out there that that don't really care and they don't go out and they don't breach the perpetrators. And then if they don't see that it's imminent risk, they're not hearing and listening to the victims that are trying to report it" – Regional Family Violence Practitioner, Uniting.*

#### **a. the additional difficulty for victims of violence in the family law system to attend multiple courts for their family law order proceedings and an FVO**

Recommendation 1 of the Australian Law Reform Commission (ALRC) Report *135 Family Law for the Future – An Inquiry into the Family Law System* was that the Australian Government should consider options to establish state and territory family courts in all states and territories, to exercise jurisdiction concurrently under the Family Law Act 1975 (Cth), as well as state and territory child protection and family violence jurisdiction, whilst also considering the most efficient manner to eventually abolish first instance federal family courts.<sup>10</sup>

Having to attend multiple courts to have their family law matters heard is a significant challenge for many victim survivors. It brings with it substantial financial and emotional costs.

Many of the families with whom Uniting works do not ever attend family courts due to the myriad barriers but many simply can't afford to access legal services and supports.

For those who can afford legal support, attending multiple courts for different proceedings requires time off work and can exhaust leave entitlements. Given that many victim survivors are single parents, it is doubly difficult juggling leave from work and finding alternative care for children. Our practitioners report that it is common for perpetrators to 'fail to attend' court as a mechanism of coercive control and to place further financial pressure on the victim survivor by having to return to court repeatedly when the perpetrator does not attend set court appointments.

The emotional and psychological toll on victim survivors should not be understated:

*"The systems are very disempowering."* Manager, Uniting.

*"I've had magistrates at family court turn around and say 'that's not family violence.' What message does that send to the affected family member [victim survivor] and to the perpetrator?"* Senior Manager, Uniting.

---

<sup>9</sup> Visa abuse, according to Safe Steps is when "someone in a family-like relationship exploits the fact that another person is without permanent residency or citizenship as a way to exert power and control over them."

<sup>10</sup> Australian Law Reform Commission, Report No 135 (2019) *Family Law for the Future – An Inquiry into the Family Law System*.

The process can result in financial stress, personal and employment related stress, further exposure to abuse from the perpetrator (discussed later in this submission) and further disempowerment and compounding trauma for the victim survivor when those working in the system (including intersecting state based systems) fail to recognise the seriousness of family violence or act to protect those experiencing family violence.

Victim survivors, particularly when they need to represent themselves in court, can find the system overwhelming and exhausting and seemingly working against them:

*"Another challenge is where you have that compounding trauma and you have fatigue from all of these court systems and processes that you have to go through [as a victim survivor]. So that in itself can mean someone might think, 'do you know what? I just won't because I've got to go through this convoluted process. I can't afford it or I've got to represent myself and the judge assumes that I am doing really well and I'm not impacted by trauma because I can speak logically and eloquently on my own behalf, which is just not the reality of the experiences of family violence'" Senior Family Violence Practitioner, Uniting.*

## **b. the intersection between FVOs and parenting orders, including that a family court parenting order may override an FVO**

*"I think the underlying barrier in all of this, [family court settings] is that parental rights are always put above and beyond children's rights and what's in the best interests of the child."* Manager, Uniting.

The intersection of parenting orders and FVOs, particularly where a parenting order overrides an FVO is a major area of concern for Uniting. The system currently appears to prioritise parents having equal time with their children over and above the safety of the child. This approach was questioned by our practitioners,

*"Parent A [the perpetrator] is entitled to have a relationship with their child. Where's the safety of the child being considered in amongst that?"*

In cases where the parent perpetrating violence is granted time with their children through a family court parenting order, this can open the floodgates to continued family violence to both child and adult victim survivors. Uniting is deeply concerned about the level of risk this practice poses, particularly to children:

*"This is a constant battle. So you might have done your intervention order. The children are included on the intervention order. It's a full exclusion order and then [the family go to] family court and a parenting order grants access to the children. What this actually means is that if family violence continues to be perpetrated against these children we are expecting that the children are the ones that will then speak up because mum is not there and we have a system that is then reliant on children and young people speaking up about the ongoing family violence, which we know for so many reasons they will not do."* Senior Family Violence Practitioner, Uniting.

Victim survivors lose trust in the court system when children are ordered to spend time with a parent perpetrating violence or with whom they do not feel safe.

*"The parent [the non-offending parent] will think that they've got it sorted and then the magistrate will say something, you know, [that undermines their experience] and then they're like, 'well, who's looking after me? and what's the process here?' And, it is just overwhelming. And too often, you see parents just say, 'you know what, this is too hard. I can't do it.'*

*And that's not protecting anyone but you hear it [happening] all the time."* Senior Manager, Uniting.

One of the more problematic outcomes of co-existing parenting orders and family violence orders is the protective parent's "fear of being breached [by the family court via conditions of the parenting

order]" or "feeling like they don't have any choice" but to abide by conditions around parental contact "even when they have concerns for the wellbeing of children."

*"It's that fear of being breached because if you don't follow through on the family law court order when you're trying to maintain safety for your children, there's a potential of being breached, the potential of having to go back to court. If that happens numerous times where the threat of potentially losing custody of your children or having reduced time with your children. The family violence orders have a clause in there that states that parenting orders need to be followed. **So there's a misalignment in terms of considering safety for victim survivor and children**"* Manager, Uniting.

This view was shared by all Uniting staff who participated in consultations to inform this submission:

*"There's a family violence order there for a reason. Why, then, do we continue on with established parenting orders if there's enough reason to put in the family violence order?"*

It is Uniting's view that the family law system must be rebalanced in favour of children's safety and the safety of adult victim survivors of family violence. Children must have a greater voice in the processes and decision making:

*"The parents are the ones that are put first and children are overlooked. If a child is able to be assessed [for their capacity to provide] informed consent then their voice should be front and centre in terms of what happens to them."* Senior Manager, Uniting.

### **c. the availability of wrap-around support services and security for victims of violence.**

*"We often see grandparents and friends taking on caring roles [for children in families experiencing violence], and they look to the police and other agencies to inform what support services are available. The police are generally their initial point of contact and they just don't know enough about support services available so families, particularly grandparents, but often friends of the family who take on caring responsibilities, have no idea what supports are available, and they just don't even know where to start."* Family Violence Practitioner, Uniting.

Victim survivors and families supporting those who've experienced family violence report inconsistent and uncoordinated availability of supports. While there are some limited supports available, it is our experience that many families do not know what is available to them or how to access those supports. Families can often be navigating complex and uncoordinated service systems while also managing the escalation of risk through family court proceedings.

*"There's a real disconnect between what the needs of the women and children are and what we're providing as a system."* Senior Practitioner, Uniting.

Support services, and specialist family violence services and case management such as that offered by community services like Uniting, are often time-limited with long wait lists. Families experiencing family violence require access to timely wrap-around support that is not time-limited and can be available for the duration of the family court process. Our practice experience is that often families are going through the family court process after a period of case management or support has 'closed' and they then reach out for additional support which isn't always readily available. Given what we know from the evidence around 'imminence' coupled with our practice experience of the way in which risk escalates in this setting, there is a need for improved access to wrap-around supports during family court proceedings. These supports should be available to help people navigate the court system but also to provide specialist therapeutic supports when necessary. Families also often need a wide range of practical and material supports including legal and financial support at this time.

Further, the profound and often lifelong impacts of family violence on children is not well recognised.

This needs to be addressed through processes that give greater voice to children and their experience, and through the availability of specialist trauma support services for children who have experienced family violence. There is a need for greater linkages between the family court and specialist services either via co-location at courts through strong partnerships between the court system and community service providers.

### **3. How FVOs could be more accessible for victims of violence going through the family law system, including but not limited to:**

- a. making it easier to apply for and enforce an FVO**
- b. co-location arrangements that would allow an application or enforcement of an FVO to be heard in the same physical location as the Federal Circuit and Family Court of Australia**
- c. the legal and non-legal support services required to promote early identification of and response to family violence.**

*"When we think about what we really want, it's just to keep people safe"* Senior Manager, Uniting.

Uniting believes that the family law system needs to be reoriented to put the safety and wellbeing needs of child and adult victim survivors front and centre. We again acknowledge the changes through the *Family Law Amendment Act 2023* that came into effect in May 2024 and anticipate these will bring about some of the required changes. We recommend the Committee monitors these changes as part of its Inquiry.

In our experience, the family court setting does not always hold perpetrators to account for their behaviour and they continue to perpetrate abuse throughout the family court process, using the court system against the victim survivor. Where this intersects with a history of financial abuse and coercive control and the gendered nature of family violence, women can be especially disadvantaged:

*"When you have that history of financial abuse or there's been separation, what we find is that the person using violence is often the one on the full time wage and the one who has the capacity to engage a barrister or a lawyer of choice. And often there is a very low threshold or ability for women to access community legal support through community legal centres. They only can take the very, very vulnerable on very low incomes and then in the middle sits this bracket of women as single income earners... they're already at a disadvantage, so he [the perpetrator] can protract the family court matters and he can pay for the legal support to keep this going as long as he likes.*

*And he does use the court system to do that and what we continually hear from victim survivors is those financial impacts of having to independently source legal representation continue well after the matters have finalised. So again, that's just another way in which even equality of access to legal supports can be used as a tool of abuse by the perpetrator."* Senior Practitioner, Uniting.

From Uniting's experience as a mainstream service provider delivering a range of specialist family violence programs and working with families at different stages of the family court system, we make the following key observations to make FVOs more accessible to victim survivors of family violence:

- The family court system as it currently operates does not sufficiently recognise the prevalence and seriousness of family violence.<sup>11</sup> Moreover, the current family court system at times fails to adequately support and protect women and children who are experiencing family violence.
- There is a need to centre the voices of women and children with lived and living experiences of family violence.
- Children must be recognised as victim survivors in their own right.

---

<sup>11</sup> This was a finding of the Standing Committee on Social Policy and Legal Affairs 2016 *Inquiry into a better family law system to support and protect those affected by family violence* and our practitioners report it continues today.

- The safety of children must be the primary focus of parenting arrangements under family court jurisdiction, rather than the rights of parents to have equal access to their children.
- Victim survivors of family violence and those caring for children impacted by family violence (e.g. grandparents or other family members) have insufficient access to information about their rights, the services available to them, and the family court process. They require improved access to timely, accurate information about their rights and the services and supports available, including family, financial, psychosocial and legal support.
- Co-location arrangements for people experiencing family violence are welcomed. This would assist families required to apply for or enforce an FVO to have that matter heard in the same location as the family court, making the system easier to navigate and potentially reduce some of the costs to victim survivors of having to navigate intersecting yet separate court systems for family violence related matters.
- Further and ongoing judicial education is necessary as well as building the capacity of family law professionals at all levels of the court system to identify, assess and respond to family violence within a trauma-informed framework.
- Systems abuse happens through the family court system where perpetrators use coercive control, further financial and emotional abuse, and create further fear and uncertainty for victim survivors.
- The family law and 'court system experience' for victim survivors can be unsafe and retraumatising. The experience of family court can erode trust in the systems designed to support victim survivors and can be seen as too difficult to navigate.