

## Confidential submission - how to provide better access for victim-survivor-survivors in the family law system to Family Violence Orders (FVO) and the effective enforcement of those orders.

I welcome the opportunity to contribute to this review into the from a lived experience perspective. Victim-survivor-survivors of domestic, family and sexual violence (DFSV) have a right to recovery and healing. There cannot be recovery without safety.

Safety necessitates protection and no contact with the violent perpetrator for a lifetime – not just in the crisis aftermath or for a couple of years. For that to occur, every victim-survivor of DFSV (both adult and children) needs immediate, free and enduring access to protection under an FVO. Ideally this should be an immediate, free and enduring FVO issued through co-located specialist DV services. There should also be harmonisation and uniformity, ensuring national consistency about FVO access and application processes, and enabling direct application by victim-survivors (adults and children).

FVOs are critical to protect victim-survivors engaging with the family law sector and family court. These are primary sites where women and children leaving violence are being re-victimised by perpetrators, laws and systems. This can show up in the perpetrator's weaponisation of systems or the dismissal and denial of DFSV. It can be the exorbitant legal costs of \$200-750K+ that victim-survivors incur while trying to protect their children from further harm and in attempting to settle financial matters with the recalcitrant or litigious perpetrator. Victim-survivors aren't being helped to quickly sever financial ties or being able to escape violence post-separation without further forced unsafe contact and escalated risk of harm or murder. Revictimisation in all its forms has profound and intergenerational effects.

No victim-survivor of DFSV should without enduring FVO protection in family law or court. The law and court must also never leave children off protection orders as they are victim-survivors of DFSV in their own right. They should also ensure that children at 18 remain included on the FVO or are automatically granted a lifetime FVO without need of going through the stress and fear of being unprotected and needing to apply for an order in their own name.

It should be mandatory that all FVO protections be enforced and upheld by police, law and courts to act on and prosecute each, and every, FVO breach by the criminal DFSV perpetrator. Without consistent and mandatory enforcement, there's no safety.

Robust FVO protection reforms should also be rapid, holistic, effective and prioritised in the National Plan to End Violence against Women and Children 2022-2032 - elevated to priority 2 or 3, rather priority 9 of the Plan. These reforms need to be backed by a unified and fully funded zero tolerance approach to DFSV at every level of government, law, justice, courts, policy and community. Those who fail to enact their duty of care to protect adult and child victim-survivors should be subject to criminal sanctions. This will help deliver effective and competent action to improve the safety for victim-survivors in family law and court systems including FVO independencies.

Please see below my detailed recommendations in response to 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.

On top of every victim-survivor having FVO protections, the court should take all action to reduce harm for victim-survivors. Techniques for de-escalation through calm communication and reinforcement of accountability and behaviour standards are well-known.

However, de-escalation in itself shouldn't be the primary focus. As evidenced by AIC research ([Understanding domestic violence incidents using crime script analysis \(aic.gov.au\)](https://aic.gov.au)), DFSV can be both de-escalated but more importantly stopped or reduced when these crimes are met with consequences through police and courts. The other most effective intervention is when the perpetrator is stopped from having any contact with their victim-survivors for the rest of their lives.

Zero tolerance approaches to DFSV ensure that there's no enabling or capacity for domestic and family violence to continue at all. In contrast, a focus on de-escalation can produce situations of placating the abuse which comes at the cost of compromise and concessions in court by victim-survivors. The limitations of de-escalation include where it:

- fails to set early pre-court consequences for DFSV
- allows domestic violence and abuse to continue, just in a 'de-escalated' mode
- assumes that the court in dealing with the perpetrator are dealing with a rational, reasonable person who can be calmed down for a long period of time
- puts the onus (and blame) on victim-survivors to follow strict conditions and steps to ensure their own safety – continuing double standards of blame and misogyny that are consistent with ineffective approaches that excuse and minimise men's violence
- continues with practices that pander, placate and enable male criminal DFSV perpetrators who excuse, rationalize, justify, and minimize the violence against female partners' (Anderson & Umberson 2001: 362).
- fails to demand perpetrators have accountability and insight for their actions, and reject their violence, coercive control and abuse as abhorrent and unacceptable
- cancels opportunities for perpetrator behaviour change through setting required standards for safe and acceptable interactions
- doesn't help with a zero-tolerance approach that leads to connecting them with men's behavioural change and only IF it is safe and appropriate to do so.
- fails to ensure the family law sector and family law court are the tail-end of the end of contact with the perpetrator and victim-survivor, rather than a vehicle for prolonging contact and escalation through years of litigation and ongoing forced unsafe contact with the perpetrator.

### Risk assessments

- To act decisively to reduce harm and violence, requires understanding both victim-survivors and perpetrators risk, reducing trigger/tipping points and proactively minimising contact of perpetrators with victim-survivors.

- Further, every victim-survivors' risk is heightened during any court proceeding, especially where either the perpetrator could be exposed and accountable OR it is environment that is conducive to the perpetrator acting with impunity and their actions being accepted and justified.
- The Family Court must meet its duty of care for victim-survivors' safety through immediate change to introduce risk screening for *all DV financial matters* (not only parenting matters as per current practice).
- There also must be comprehensive and compulsory risk assessments done prior to any family law or court proceeding starting.
- This would be a change to practices where risk assessment are only done in parenting matters currently, despite the high risks inherent in financial matters as motive for coercive control, abuse and violence to the victim-survivors to gain their assets and property.
- If there's no change, this ignores research and evidence that financial abuse is present in 99% of all DV cases, it escalates risk to high in these cases, and that financial gain though the abuse, control and eventual death of the victim-survivor is often an underlying motive for the victim-survivor's murder.
- Unique risks specific to each case (for example religion and culture, geographical location, health and disability are all considered) must also need adequately, proactively and promptly managed and mitigated by the Family Court and family law for the entirety of the case.
- In addition, there needs to be an overhaul the current Family Court risk assessments so that all assessments:
  - are aligned with DV industry risk assessments (MARAM, CRAF etc) to better protect victim-survivors
  - don't include any questions that reflect bias, misogyny or victim-survivor-blaming narratives that denigrate victim-survivors as emotionally or mentally unstable, thereby giving DV perps advantage in proceedings as the stable, calm and 'credible' party.
- Upgrade and mandate domestic violence risk assessment by qualified agencies and by specialist DV police but ensure these are always be done with the input of the victim-survivor as they know their own risk best and have managed risk and danger instinctively during the relationship.
- Understand that a risk assessment is not a checkbox list and may not be always evidence based. Sometimes, there may not be hard facts to back a victim-survivors intuition and feelings of foreboding but may reflect trauma processing and a lack of a language to identify and describe abuse (i.e. coercive control) they've suffered. Their fears shouldn't be dismissed as hysterical or unstable, based on Freudian gender dismissive stereotypes of women.
- There also needs to be priority action on for all high-risk victim-survivors of domestic violence (both adults and children) especially where suicide threats, suffocation, strangulation, drowning weapons, sexual violence including child sexual abuse are present.
- All victim-survivors of DFSV to be considered high risk where coercive control is present, even in the absence of physical violence.
- Risk assessment to be dynamic and cover the full historical and changing patterns of intimidation, coercion and abuse (both directly and indirectly through systems). This

approach would align in the change from an incident-based approach to domestic violence rather than taking the full lens to see patterns of coercive control.

- Assessments must apply the full history and no sunset clauses (i.e. only assessing the past 2 years or while FVO was in place) to every DFSV risk assessment for FVOs and Family Law. This means an end to assessing domestic and family violence risks as isolated incidents on a checklist with a time constraint.
- Prevent assumptions that because risk reduced/abated while FVO was in place for a period so that means that the victim-survivor will be safe when the FVO is lifted. Educate for understanding that victim-survivor's risk doesn't reduce over time and any domestic violence is ever only historical (FVO and family law) and that the perpetrator poses little or no risk.
- Recognise the changing methods of abuse by proxy or third parties when an FVO is in place, and these are all forms of the same long-term pattern of domestic and family violence.
- See all breaches and transgressions of FVO's as an escalation by the perpetrator and evidence of escalating risk for victim-survivors.
- Immediate ban on any family law and Family Court practices that dismiss DFSV as historical and failing to understand changed tactics of litigation abuse and/or continuing risk of harm.

#### *Lighthouse scheme*

- The Lighthouse scheme was devised to assist with risk assessment, but in practice has been limited in its application/scope, outcomes/assessments aren't visible to judges, and are used instead to determine administrative pathways for cases. This fails to protect high risk victim-survivors.
- Furthermore, there should be a specific, independent investigation by lived experience experts and DV researchers to examine any shortcomings of this scheme and how it could be improved.

### **Physical security of victim-survivors and no contact with perpetrators**

- Ensure sufficient security in all courts and enough remote witness rooms for victim-survivors to ensure they don't have contact with the perpetrator. The number of remote witness rooms are limited within courts.
- Install duress alarms and other methods of signalling for victim-survivors while in court.
- Victim-survivors to be accompanied by both lawyers and/or court monitors and DV wellbeing staff at all times.
- No victim-survivors being required to wait near perpetrators in court waiting rooms or to have to enter any courtroom with the perpetrator in the same room.
- That victim-survivors shouldn't be forced into and are also protected from any contact with the perpetrator during court or mediation (i.e. lawyer or mediator assisted via shuttle discussions)
- If perpetrators are in court they should be closely monitored for triggers by experts trained in domestic terrorism/serial offenders.
- Perpetrators should be required to appear via remote video link and not be present at all at court or alternatively victim-survivors to be excused from attending court physically.

## Reduction of family law case time

- Expedite family law proceedings so that no case goes longer than 3-6 months which will also de-escalate risk of harm and violence.
- Employ data sharing of government and private data to ensure records from banks, ATO, DSS, ASIC, businesses, child support, welfare, insurance agencies etc to assist with financial disclosure so that perpetrators are no longer able to avoid, partially or refuse to disclose financials as required by law which often leads to years of costs for victim-survivors who rely on this disclosure.
- However, in expediting cases this must not be done at the expense of victim-survivors. As such there should be no coercing female victim-survivors to give in to accept lesser settlements and unsafe contact arrangements which creates even higher risk, unsafe environment and massive financial losses and health, wellbeing, safety and security impacts.

## Change focus from blaming victim-survivors to being victim-survivor-centric

- Current laws enable the perpetrator, to 'consent to the order' without admissions or accountability. This approach is unacceptable as it gives full power to the perpetrator to decide if the victim-survivor can get any protection and for how long. This practice enables and replicates in law, the dynamics of DFSV and coercive control. This must change.
- Compulsory risk assessments with an end any practice or bias that results in the dismissal of DV as historical or due to parental alienation as part of perpetrator defences and denial of any form of child abuse.
- This approach helps de-escalate matters because perpetrators can't weaponise system and there isn't any chance of family law or court collusion in perpetrators DARVO techniques and victim-survivor-blaming narratives.
- Instead perpetrators should face rejection of their violence, accountability for their failure to engage in safe and helpful parenting and partnerships, and clearly reject coercive control, violence and abuse as unacceptable.
- Where perpetrators have no insight into their behaviours or genuine remorse this must be documented by all services - the court, child protection, mediators, ICLs, family report writers and police - as part of consolidated HRT information sharing and risk management.
- These reports can help assess cases where there's a perpetrator present too high a risk to be involved in any contact or ongoing parenting arrangements in line with a compulsory shift to adopting and adhering at all times to the Safe and Together Institute model.
- Ensure that settlements and arrangements aren't reached in these timeframes at the expense of victim-survivors (and their children's) safety and financial wellbeing. This includes:
  - full and subsidised/free legal support for female victim-survivors and their children to disentangle financially and secure financial assets to ensure long term financial security and wellbeing assisting recovery
  - criminal charges for financial abuse for perpetrators, and similar for lawyers as well as stripping of legal licenses for any lawyer or court that allows or enables failure by

- perpetrators to not disclose financials and promptly engage in legal matters promptly and in good faith
- ensure that victim-survivors inheritances, payout, compensations, winnings and superannuation are automatically exempted from financial proceeding reducing perpetrators escalation and incentive/ motive for financial gain through protracted proceedings or the murder of the victim-survivor.
- Safe and Together training and resources/publications as well as the work of Ewan Stark and Jess Hill (coercive control), Lundy Bancroft regarding perpetrator insights, and Emma Katz and Beverly Engel (child abuse) should be made mandatory for all in the family law sector and court, not discretionary.

#### *Banning legal/litigation abuse and abuse by proxy*

- An environment that allows a violent perpetrator to continue their abuse through changed tactics of abuse by proxy post-separation, continues the crimes of DFSV in a different form and is another form of escalation.
- It's also creating an environment where this can continue with impunity and where lawyers, barristers and courts acting for or siding with the perpetrators are complicit in escalating domestic violence.
- This includes tactics of litigation abuse, escalating the victim-survivors' legal costs, refusing to disclose financials, refusal to negotiate or respond, threats and intimidation that wipe out victim-survivors financial, emotional and physical security.
- There be immediate action to prevent this and needs to include all of the following prohibitions, mandated in law:
  - ensuring perps and their lawyers aren't able to engage in lawfare over years (5-18+) through family law and court prolonged correspondence and proceedings,
  - enforcing legal sanctions and disbaring for any abuse by proxy through lawyers, third parties and unregulated child 'experts' which can be part of perps financial and post-separation abuse of victim-survivors.
  - laser focus by judges to ensure there's no lack of accountability for perps reducing income to avoid paying child and maintenance or wastage of assets and taking this action into account in financial settlements.
  - not allowing any splitting victim-survivors superannuation, inheritances, payouts and assets with perp in financial settlements, essentially rewarding perps' domestic violence
  - paying sufficient attention to the impacts of DV on victim-survivors work, finances and assets and employment/wellbeing/career advancement and allowing compensation for this lost earnings potential in financial settlements
  - putting a monetary value on victim-survivors unpaid work in caring for the household, child caring, support and mentoring, and domestic work both in and outside the home including the garden etc.
  - fully taking into account and prevention of victim-survivors incurring financial costs from the family lawyer, mediators, etc vast profits from domestic violence matters
  - ensuring that there's no discrimination and financial barriers for victim-survivors from being adequately protected/represented due to the exorbitant costs of court transcripts, forced mediation or forced use of highly expensive ICLs/barristers.
  - not allowing the perp to exhaust victim-survivors' financial resources so that no fair financial settlements are reached or the victim-survivor gives up when the money runs out

- ensuring there's equitable or affordable legal representation including access to legal aid or pro bono legal representation subsidised by the Family Court so that this legal support isn't restricted by the victim-survivor's assets/income and victim-survivors don't have to lose their homes or life savings to pay for legal costs.

*Prohibit forced unsafe child or adult contact with DFSV perpetrators*

Key drivers of perpetrators violence and any escalation are the desire to control, entitlement and failure to take personal responsibility. Post-separation, the perpetrator changes tactics to escalate in abuse, threats, intimidation and violence to demand and coerce their ongoing contact.

In family law and family court, the child becomes a weapon for the perpetrator to maintain control, access and contact with the victim-survivor. This is done to weaponise the children against the mother and maintain control and social standing of the perpetrators. Family law or court orders, transferring custody, can result in forcing or coercing unsafe child contact through ordered visitation or transfer to the sole, unsupervised custody of the perpetrator. This has seen cases where there's further abuse of the children including sexual abuse by the perpetrator. Tragically, we have also seen the homicide/suicide of child and perpetrator post being granted visitation, supervised child contact changes to unsupervised child contact, or the child is being forced to transfer into the sole custody of the perpetrator by Family Court order. Ultimately, the court can act to prevent violence and risk because this danger is foreseeable and preventable. DFSV follows an established trajectory of violence escalation (Monash, ANROWS, Our Watch DV research evidence).

Family law and court needs to ensure that it always acts in the best interests of children. This includes recognition by all that children are also victim-survivors of DFSV in their own right, not observers or exposed to family violence. Abuse of the mother should also be seen as abuse of the children (David Mandel, 'Stop Blaming Mothers').

This can be carried out in the practical actions of the court as follows:

- children are protected not forced into any unsafe and unsupervised contact.
- children (not only 16-18 years) have the choice and the right to choose which parent they want contact with, in line with honouring their autonomy, protecting their best interests and upholding their rights to safety and freedom under the International UN Human Rights of the Child.
- change so that victim-survivors and children are not given life sentences over 18 years of forced contact with a perpetrator and at risk of violence, control and abuse.
- mandate the current change to shared parenting rather than make it discretionary. The current change to shared parenting, doesn't remove parenting rights of perpetrators, even if they are one of the 2% convicted of serious and high-risk DV such as stalking, attempted murder etc or child sexual abuse and are clearly a risk to victim-survivors.
- apply an unequivocal direction of NO forced contact with child with violent, controlling or abusive perpetrators, regardless of whether there are criminal convictions, especially when it is well-documented that only 2% of perpetrators are ever convicted.
- cease application of the Harman Convention where it risks child safety, i.e. if convictions from another court require 'court leave' to be considered in family law, or are set aside and deemed not relevant, especially in cases of child sexual abuse allegation or convictions. This is not acting in the best interests of the child.



- mandate that all judges, court officials, lawyers etc are required to be DFSV or trauma informed, attend DFSV training and must have current and unrestricted Working With Vulnerable People clearances.
- mandatory education for all family law sector and courts of all types on coercive control, DFSV including child sexual abuse, and affirmative consent and requirement and report DFSV in any legal proceeding
- force police to act on these reports from the legal sector that can support and protect victim-survivors but also ensure no unintended impacts and misidentification.

*Ensure victim-survivors are believed and treated with respect and dignity*

- As part of the victim-survivor centred approach as described above, ensure no family law professional treats or sees DFSV as high conflict or mutual abuse situations.
- Prohibit any disrespect, abuse denials or re-victimisation of victim-survivors and their children. This includes a ban any abuse denial and silencing under the guise of claims of parental alienation or that the victim-survivor is crazy that occurs often in civil, family and criminal law and courts in abuse by proxy by lawyers for perpetrators.
- Ensure all legal professionals including ICLs, lawyers, barristers, judges and family law experts are no longer unregulated. This includes a mandate that they must all be properly trained in DFSV, be trauma informed and hold working with vulnerable people clearances. None of these people should be able to dismiss DFSV risks for victim-survivors or dismiss DFSV as historical.

## 2. The current barriers for litigants in the family law system to obtain and enforce FVOs, including but not limited to:

- a) the additional difficulty for victim-survivors of violence in the family law system to attend multiple courts for their family law order proceedings and an FVO
- b) the intersection between FVOs and parenting orders, including that a Family Court parenting order may override an FVO
- c) the availability of wrap-around support services and security for victim-survivors of violence.

### Limited FVO duration

In some jurisdictions, FVOs can only be granted for 2 years and longer FVOs or 5 years are only available in the most exceptional of DFSV criminal cases being on foot at the same time as an FVO application.

This creates stress, financial cost and strain and ongoing fear for victim-survivors as their FVO is always in jeopardy because there is the constant need for renewal every 2 years and applications are blocked or obstructed by perpetrators.



Immediate action for legal reform could prohibit the current arrangement of short-term FVOs (2 year limit) which don't support safety for victim-survivors caught up in long-term, Family Court or criminal litigation, or family law negotiation (outside court).

FVO's should be for the remainder of their lifetimes for all victim-survivors (both adults and children) to enable full safety after leaving violence, not crisis or short-term interventions which do nothing to fully manage risk or enable recovery where victim-survivors have no contact with the perpetrator and rebuild their lives in peace and safety.

## Any other reform that would make it safer and fairer for victim-survivors of violence in the family law system who need the protection of FVOs.

### Recommendations

#### FVO and legal reforms

The current FVO access, application, extension and enforcement processes are deeply flawed. The following recommendations seek to highlight issues and propose change.

##### *Free legal help for victim-survivors*

Most victim-survivors with cash or joint unresolved financial assets, property or a standard employment income, can't access to legal representation through legal aid – it only caters for a very small percentage of victim-survivors – due to means testing.

Eliminate means testing for legal aid on a national level so that women aren't disadvantaged in legal proceedings or subjected to legal abuse which is also a financial abuse by perpetrators.

##### *National consistency of FVO law, access and protection*

There should also be national consistency about FVO access and application processes, enabling direct application by victim-survivors (adults and children).

Currently laws differ in each state and territory for access, application, court responsible, duration and issue (see ARLC legal framework). This includes in the NT, FVOs only third parties or child protection or in NSW only police being able to apply for FVOs. This doesn't empower or protect victim-survivors of crime. It can also be problematic if there's weaponisation of system or in situations where it is police who may be the DV perpetrator. The best and strongest laws enabling direct victim-survivor empowerment, maximum FVO duration and free legal access needs to be chosen and upheld.

There could be multiple avenues for access including specialist DV services, all courts, trauma hospitals (DV recovery), or womens and child health services. Children should also be able to apply in their own right.

##### *DV services to issue FVOs*

- DV services increased, fully-funded with enduring funding for both emergency responses and recovery. That these services be co-located at every family law firm (private sector), legal aid and every type of court - magistrates, criminal and family courts as well as with every police station nationally.

- DV services as noted above as able to issue free, enduring (lifetime) and immediate FVOs for women and children.
- Ensure that enduring lifetime FVO protections issued by DV services are legally binding and MUST be honoured and enforced by all courts and police.

#### *FVO being the strongest power legally*

In addition to the other recommendations above, propose the following changes:

- Prohibit the undermining of any FVO with a parenting order which should be secondary to an FVO, rather than currently over-riding it.
- Prohibit any court, including Family Court to overturn an FVO or dismiss DFSV as historical and low risk.
- This should be expanded to include any interactions with the international Hague Convention. If there's DFSV allegations or an FVO is in place, then there should be reciprocal questions and duty of care applied in Family Court and under the Hague Convention to ensure no unsafe, unsupervised contact with the perpetrator.
- Revisit clauses of the FVO that are unclear, not specific or limit police/court ability to prosecute FVO breaches.
- Revisit contact with a legal practitioner and make it clear (and a standalone FVO breach category) that any contact from a perpetrator's lawyer should not be any abuse by proxy, litigation abuse or legal obstruction.
- Ensure wishes of the child are reflected in FVO wording including their rights under UN Law Human Rights of the Child to security and safety. This includes legal reform so that there should only be contact with the perpetrator when this is requested and consented to by BOTH the victim-survivor and the child/children.
- Understanding that perpetrators tactics change with an FVO to weaponisation of systems and processes (family law /court), which tries to silence and put victim-survivors on trial.
- Recognition of both financial abuse and litigation abuse (also as part of financial abuse) as standalone categories of crime that are standalone offense as crimes and priority breaches for FVO by police.

#### *Perpetrators legal abuse and intimidation of victim-survivors*

- The corruption of the FVO applications and renewal processes currently sees:
  - perpetrators use of criminal lawyers and barristers and courts to intimidate and coerce victim-survivors from getting a FVO.
  - enabling by courts of perpetrators engagement in this intimidation and escalated costs to defend an application which is litigation abuse and financial abuse often in breach of an existing FVO.
  - turning FVO civil cases into quasi criminal trials that put the victim-survivors on trial, have their evidence cross-examined often by criminal barristers while the perpetrator doesn't have to give evidence, creating double standards and hardship/stress for victim-survivors.

#### *Ban legal/financial abuse of victim-survivors in FVO process by private law firms*

No access to legal aid means that victim-survivors resort to these private law firms who see opportunity and revenue leading to have to pay huge costs (50K each time if using a barrister and case proceeds through all steps to a final court hearing), just in order to be legally represented.

This creates an environment conducive to financial corruption and re-victimisation, where private law firms (lawyers and barristers) profit hugely from representing victim-survivors seeking to get or extend an FVO.

In these jurisdictions, when a victim-survivor seeks to get or extend an FVO through court, it can cost between \$30-50K to get private legal representation (throughout each step of the process) each time. Note this amount is based on 2024 quotes from 2 different private law firms. This is completely unaffordable and unsustainable and victim-survivors aren't able to meet costs of \$50k or more every 2 years. Biannual FVO renewals also become harder to obtain over time, escalating risk for victim-survivors.

These extreme profits, and ultimately re-victimisation being perpetrated by private law firms, strip victim-survivors of their assets and financial security. For example, paying \$50K every two years just for short term protections, means the victim-survivor and their child/children is stripped of a total of \$250K or more if they were successful to get continuing FVO protections for 10 years total.

Others who choose to self-represent, are subject to legal intimidation by lawyers, barristers and courts to their detriment. As they are at disadvantage verses the legal knowledge and skills of a perpetrator lawyers, they are likely not get an FVO protection or an FVO extension.

At present, perpetrators using obstructionist litigation abuse which is also financial abuse to block an FVO being granted or extended. These are acts of domestic violence but they aren't considered to be family violence by police when reported nor as FVO breaches if an FVO is in place.

On top of this, victim-survivors can be also ordered by the court to pay the other parties costs if they lose an FVO or family law case. This is crippling both financially and emotionally for victim-survivors and their children.

The combination of these factors creates situations of high risk for victim-survivors and can lead to the murder or the suicide of the victim-survivor who is completely let down by multiple systems (law, court and justice) that are meant to protect them.

Immediate action by government could protect victim-survivors, deescalate violence and ensure:

- legal recognition of and prohibition of legal abuse in family and domestic violence law as a form of both serious financial abuse and psychological abuse and urgent registration of legal abuse as a prosecutable FVO breach category.
- prohibit any obstructionist legal tactics by perpetrators and legal representatives to block an FVO being granted or extended.
- ban criminal law involvement for perpetrators in FVO cases – both application and extension – to intimidate victim-survivors and turn civil cases (FVO hearings) into quasi criminal trials.
- ban law firms and courts are banned from making profits from DFSV victim-survivors especially FVO processes of applications and extensions
- mandate police prosecution of these litigation and financial abuse crimes as DFSV and as FVO breaches if an existing FVO is in place.

### *Intersection with family law profits and litigation/financial abuse*

Further, in the family law sector it's standard practice that these firms demand and require in legal cost agreement contracts to be signed before any legal representation including FVO representation, can begin.

As such these vulnerable victim-survivors are signing under duress due to their unsafe situation, costs agreements which include signing over an irrevocable lien over all their property and assets.

In addition, perpetrators and their lawyers often engage in litigation/financial abuses to escalate victim-survivors cost by their inappropriate and unnecessary use of private criminal and family lawyers and barristers in civil FVO cases. The exorbitant profits from FVO proceedings are in addition to the years of massive profits that legal firms and courts make from related family law negotiations and proceedings over financial and parenting matters. This includes exorbitant cost for court transcripts of \$10K.

As evidenced by DV research and testimony of victim-survivors, this can cost a victim-survivors \$200-500+K in legal costs protracted over years or in coerced settlements which are detrimental to victim-survivors and their children's long-term safety and security. The combination of FVO and family law costs can strip victim-survivors of in excess of \$750K.

For most victim-survivors, this amount would mean the loss of all financial assets, property and financial security. It leads to homelessness, poverty and disadvantage. On top of this are the untold health effects of stress, poverty and devastation, affecting both adult victim-survivors and their children and entrenching the intergenerational cycle of violence and abuse.

Thus lawyers, especially those engaging in both FVO and related family law protracted matters for clients, can strip victim-survivors of their property, their houses and all assets through this contractual arrangement, and render victim-survivors and their children homelessness with impunity.

There's no recourse through the legal sector to recover large funds due to the closed shop nature of the legal industry and compensation restrictions. There's also little or no scope to appeal or overturn of legal decisions or contracts through the aid of law societies or legal services commissioners. The potential for costs orders against victim-survivor, any compensation, if won, is capped at very low levels.

### *Failures to enforce FVO and act on FVO breaches*

My lived experience over the past [REDACTED] years has seen multiple failures by police to enforce the law on any FVO breaches. This is even in completely obvious FVO breach situations which directly contravene the terms of the FVO [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]

There was no pattern of incidents recognition as part of coercive control and ongoing DV, rather than police responses were 'actioned' but not fully investigation or prosecuted, as if all these breaches were isolated incidents. I also found out later that police also conducted a risk assessment with zero input from myself which is against

industry standards and practice. On some occasions, I felt that I was also treated with disrespect and dismissal, against the Victim-survivors Rights Charter, by police and by multiple integrity agencies I sought to raise issues with. None of this aligns with any of the tenants of National Plan and doesn't meet community standards for police action on crime and protection of victim-survivors of crime, including minors.

If there's no action on FVO breaches, this enables the criminal perpetrator and escalates risk for victim-survivors. Instead, every breach should also be seen as escalation and evidence of the perpetrators non-compliance with the FVO and disrespect for the rule of law.

### Compulsory action on every agency (govt and private) to prevent any DV

- Mandatory action for police to act on every breach of an FVO, if there is to be action nationally to end DFSV within a generation.
- Criminal prosecution and disbaring/loss of practicing license for any legal professional, law firm or state or territory (FVO and criminal) or federal (Family Law) court if they're engaging in abuse by proxy, litigation abuse or obstruction over any FVO or family law matter.
- Ensure professional curiosity encouraged by all educational institutions (daycare, pre-school, primary, high school, college, TAFE and university) to identify children experiencing DFSV and help their mothers access FVOs, particularly where children are the first to disclose DFSV in this setting. There should also be help, training and support for them to be vital witness/supports in DFSV cases and FVO applications.
- Mandatory reporting of DFSV for every level of community, agency and sector and charities and welfare agencies under a zero tolerance/ active bystander tolerance approach and recognition of the gendered nature of this violence to avoid misidentification of victim-survivors.

### Stop enabling further harms by perpetrators to other victim-survivors

- Currently FVO are civil matters with no record showing up on the perpetrator's criminal history or record. As such there is no accountability.
- If a victim-survivor tries to take a perpetrator to criminal court, they face the possibility that:
  - the police or Director of Public Prosecutions won't press charges against the perpetrator
  - if going to court, the victim-survivor and their children is put on trial and subjected to sadistic questioning by barristers at length without any intervention from judges, exacerbating stress and trauma
  - only 2% of perpetrators are ever convicted
  - sentences don't match the crimes nor the impact of those crimes on victim-survivors.
- Given the lack of criminal record and extremely low prospects of convictions, most perpetrators have no DFSV histories recorded on their criminal record.
- As such, perpetrators can go on to both:
  - entrap and abuse other victim-survivors
  - still get Working With Vulnerable People clearances despite violent histories of DFSV or child sexual abuse. They're free to work with the vulnerable members of the community – from daycares, pre-school, after school care, NDIS, welfare and

rehabilitation services including drug and alcohol, and aged care. This poses great risk for further victimisation and is unacceptable.

- commit other crimes affecting the public which can include acts of domestic terrorism. DV research have long noted the link between perpetrators of terrorism having a history of DV and this must inform approaches and understanding of the seriousness of these crimes.