



A•S•U

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File/Our Ref: 37.40
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24 September 2018

Senator Gavin Marshall
Chair
Senate Standing Committee on Education and Employment

Dear Senator Marshall,

Re: Inquiry into Fair Work Amendment (Family and Domestic Violence Leave) Bill 2018

Our members know about domestic and family violence. They know that domestic violence destroys individuals, families and communities. It shames us all.

Our members know Rosie Batty was right: It doesn't matter how nice your house is: Domestic and family violence do not respect postcodes – it can happen to anyone.

It is our submission that access to domestic violence leave must be legislated as a universal entitlement for all workers in the National Employment Standards; that it should be a minimum of ten days and that it should be paid leave. We hold this to be singularly the most immediate and important action that can be taken by a Federal Government that is genuine in its commitment to assist people, particularly those with their children, to leave violence.

The Australian Services Union has campaigned for almost four decades as part of the Australian union movement to win universal entitlement to paid domestic violence leave. We therefore welcome the Government's decision to legislate for universal entitlement to 5 days unpaid domestic violence leave. However, on the basis of strong local and international research, we continue to call for a legislated universal entitlement to ten days of paid domestic and family violence leave.

Our members' submission is underpinned by clear and extensive Australian and international research which demonstrates:

- that domestic violence is a pervasive and destructive problem that impacts individuals, families, communities and the economy
- that while both men and women may be living in a violent relationship, domestic violence is nearly always perpetrated by a man and the victim is almost always a woman
- that almost one million women – up to 70% of women living in a violent relationship are in the workforce
- that more than 60% of those women have children, whose lives are seriously impacted by living with violence
- that domestic violence clearly impacts the workplace – it is a workplace health and safety issue and affects careers, productivity and workplace culture

- that a person with a job is far more likely to leave a violent relationship
- that leaving a violent relationship is both expensive and time consuming
- therefore, it is essential that there is paid domestic violence leave available as a universal right to all Australian workers.

The Australian Services Union (ASU) represents workers throughout the not-for-profit and the social and community services sector. The Union has members throughout Australia. Our members work in local community services, national, regional and state-wide organisations, community partnerships and hubs, all of the major charitable organisations and trusts, all of the social and community sector peak organisations, and all of the major faith-based organisations.

The ASU is therefore in a unique position, representing professional workers in almost every non-government organisation in Australia dealing with individuals and their families who are living with domestic and family violence and its impacts. Many of our members and the organisations for which they work have made their own detailed submissions to this Inquiry, based upon their professional expertise. We respect the experience and skill of our members expressed in those submissions. Where relevant to the Committee's deliberations, it is our members who are best placed to address specific issues of law and of professional clinical practice. We acknowledge and honour the skill and dedication of our members in specialist women's services and domestic and family violence practitioners that underpin this submission. We particularly take this opportunity to thank those who have shared their expertise and experience with us as an essential part of preparing this submission.

The Union's submission is a statement about domestic and family violence as a public issue. While incorporating comments by our members in relation to their practice, the Union's submission addresses family and domestic violence as a workplace issue with broad social and economic implications. The Union's submission will focus on these issues of public policy, while submissions by our members and the organisations for which they work will specifically address clinical and practice issues, for which they are qualified, skilled and experienced.

We pay particular and humble tribute to those women who have allowed us to tell their terrible stories as part of our submission. They are dealing with extremely dangerous people. At their request and for these reasons they have been de identified. For the same reasons we have de identified individual workers and organisations who have provided us with information.

We take this opportunity to thank the Committee for conducting this very important Inquiry and for providing an opportunity for the ASU to make this submission, which we hope will make a positive and constructive contribution to your deliberations

Yours faithfully

Linda White
ASSISTANT NATIONAL SECRETARY



ASU Submission

Senate Standing Committee Education & Employment Committees

Inquiry into Fair Work Amendment (Family and Domestic Violence leave) Bill 2018

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1. Introduction

The Australian Services Union (ASU) is one of Australia's largest Unions, representing approximately 135,000 members.

The ASU was created in 1993. It brought together three large unions – the Federated Clerks Union, the Municipal Officers Association and the Municipal Employees Union, as well as a number of smaller organisations representing social welfare workers, information technology workers and transport employees.

Current ASU members work in a wide variety of industries and occupations because the Union's rules traditionally and primarily cover workers in the following industries and occupations:

- Social and community services
- Local government
- State government
- Australian Tax Office
- Transport, including passenger air and rail transport, road, rail and air freight transport
- Clerical and administrative employees in commerce and industry generally
- Call centres
- Electricity generation, transmission and distribution
- Water industry
- Higher education (Queensland and SA)

The ASU has members in every State and Territory of Australia, as well as in most regional centres as well.

Who we represent in social and community services

The ASU is the largest union of workers in the social and community services sector. Our members predominantly work in non-government, not-for-profit organisations that support people experiencing or at the risk of experiencing crisis, disadvantage, social dislocation or marginalisation. Of specific relevance to this Inquiry, the ASU represents workers who are employed in the following areas:

- Crisis accommodation for women, children, families, young people and men
- Sexual assault, domestic and family violence services

- Women's Domestic Violence Court Advocacy services
- Youth and child protection services
- Out of home care for children and young people at risk
- Homelessness, housing and tenancy services
- Family support services
- Disability services, including residential care
- Health and mental health services
- Alcohol, gambling and other drugs of addiction and rehabilitation services
- Aged care services
- First Nation people's services
- Migrant and settlement services
- Prisoner rehabilitation
- Community legal services
- Community and neighbourhood services
- Policy, research and advocacy services
- Community transport

These ASU members are highly skilled practitioners. They hold qualifications in law, psychology, management, social sciences, welfare work, disability work, social work, youth work, child protection, aged care and community work, mental health, drugs and alcohol counselling and a long list of other specialist qualifications. Our members also include clergy of many faiths.

ASU members in the social; and community sector work to protect vulnerable women, babies, children, young people, men and families in their own homes, in out-of-home care, in refuges and in after care. Our members also work to protect those same people when they are homeless, living in cars, on the streets, 'couch surfing', and in other dangerous circumstances. Our members provide case work, crisis intervention, referral, financial and other support for individuals of all ages and families experiencing poverty, isolation and homelessness, gambling, drug and alcohol addictions, disabilities, mental health issues, overwhelming legal and financial problems, very young parents and

those who are refugees or have other settlement issues. They work with women, children, young people and men who are experiencing or escaping violence.

2. What is domestic violence?

Domestic violence is now recognised to be a serious and widespread problem in Australia, with enormous individual and community impacts and social costs. Domestic violence may include physical, sexual, financial, emotional or psychological abuse. Emotional or psychological abuse may include a range of controlling behaviours such as the use of verbal threats, enforced isolation from family and friends, restrictions on finances and public or private humiliation.^{1 2}

Family violence is usually a broader term referring to violence between family members as well as intimate partners. It is often the preferred term used in the context of violence experienced in Indigenous communities, involving a variety of kinship and marital arrangements.³

Generally, the most pervasive form of violence experienced by women in Australia is violence perpetrated by an intimate partner or family member, commonly referred to as domestic or family violence and sexual assault by an intimate partner or someone other than a partner.⁴

While some groups of women are more at risk of experiencing domestic, family or sexual violence than others, these forms of violence occur in all Australian communities and across all socio-economic groups. The underlying causes are complex and not fully understood, but there is general agreement that gender inequality is a key determinant of violence against women.⁵

3. The extent of domestic violence in Australia

When defining domestic, family or sexual violence the ABS distinguishes between 'prevalence' and 'incidence'. 'Prevalence' estimates the number of people who have experienced domestic, family or sexual violence in the relevant population within a specified time period, while 'incidence' measures the number of reported incidents of domestic, family or sexual violence that have occurred within a specified time period.⁶

As most incidents of domestic, family and sexual violence go unreported it is not possible to measure the true extent of the problem. However, prevalence estimates show that domestic, family and sexual

¹ ABS Personal Safety Survey Australia 2012

² We specifically wish to acknowledge the outstanding work of Janet Phillips and Penny Vandenbroek from the Federal Parliamentary Library, whose work in collating research and other data in an overview of the issues associated with domestic, family and sexual violence in Australia has played a crucial role in informing this submission

³ *ibid*

⁴ Australian Government National plan to reduce violence against women and their children 2010 – 2022 Department of Social Services (DSS)

⁵ L Wall, gender equality and violence against women: What's the connection? Australian Centre for the Study of Sexual Assault Research Summary June 2014 and A Powell rape Culture: Why our community attitudes to sexual violence matter in The Conversation September 2014

⁶ ABS Defining the data challenge for family, domestic and sexual violence cat.no. 4529.0

violence in Australia is widespread and that the majority of those who experience these forms of violence are women.⁷

Other available statistics show that a woman is more likely to be assaulted in her home by a male partner than anywhere else or by another party.⁸ The majority of female homicide victims are killed by an offender with whom they share a domestic arrangement and women are over-represented in intimate partner homicides.⁹ Most women also do not report their experiences of violence to police and they are even less likely to report violent incidents to police when the perpetrator is a current partner.¹⁰

The 2012 ABS Personal Safety Survey provides detailed information about men's and women's experience of current and previous partner violence, lifetime experience of stalking, physical and sexual abuse before the age of 15, emotional abuse and general feelings of safety.

In its findings, the ABS Personal Safety Survey estimated that:

- 49 per cent of men (4,148,000) and 41 per cent of women (3,560,600) had experienced some form of violence since the age of 15
- women were more likely than men to have experienced physical assault by a male in their home.
- More than two-thirds (68%) of mothers who had children in their care when they experienced violence from their previous partner said their children had seen or heard the violence¹¹
- Similar proportions of women and men (67 and 68 per cent) had not been in contact with the police after their most recent incident of physical assault by a male
- In 2014–15, on average, almost 8 women and 2 men were hospitalised each day after being assaulted by their spouse or partner¹²
- From 2012–13 to 2013–14, around 1 woman a week and 1 man a month were killed as a result of violence from a current or previous partner¹³
- Women were more likely than men to be subjected to violence by a partner

⁷ ANROWS, Key statistics on violence against women ANROWS Fast Facts

⁸ Ibid and R Alexander, Women and Domestic Violence in P Easteal, ed Women and the law in Australia Butterworths, Chatswood NSW 2010

⁹ A Chan and J Payne Homicide in Australia 2008 – 09 to 2009 – 10 National Homicide Monitoring Program Annual Report Australian Institute of Criminology Canberra 2013

¹⁰ ABS Personal Safety Survey Australia 2012 and J Mouzos and T Makkai Women's Experiences of male Violence: findings of the Australian component of the international violence against women survey Research and Policy Series 56 Canberra 2004

¹¹ ABS 2017

¹² AIHW 2017

¹³ Bryant & Bricknell 2017.

- Both men and women were more likely to experience physical violence than sexual violence, however, women were much more likely to have experienced sexual assault than men.
- Men and women who had experienced sexual assault since the age of 15 were more likely to have been assaulted by someone they knew rather than by a stranger. An estimated 15 per cent of women had been sexually assaulted by a known person compared to 4 per cent who were assaulted by a stranger
- Women were more likely than men to have experienced emotional abuse by a partner
- Women were more likely to have experienced an episode of stalking during their lifetime—19 per cent of women and 8 per cent of men.¹⁴

4. The impact of domestic violence - why a universal entitlement to leave is important

As we have said previously, Rosie Batty was right: it doesn't matter how nice your house is: Domestic violence can happen to anyone. We therefore support this critical feature of the Bill, which legislates 5 days unpaid domestic violence leave as a universal entitlement in the National Employment Standards (NES).

All violence is wrong, regardless of the sex of the victim or perpetrator. But there are distinct gendered patterns in the perpetration and impact of violence. While men are more likely to experience violence by other men in public places, women are more likely to experience violence from men they know, often in the home.

The overwhelming majority of acts of domestic violence are perpetrated by men against women, and this violence is likely to have more severe impacts on female than male victims.¹⁵

Violence against women and their children takes a profound and long-term toll on women and children's health and wellbeing, on families and communities, and on society as a whole. Intimate partner violence is the greatest health risk factor for women aged 25-44.¹⁶ Domestic or family violence against women is the single largest driver of homelessness for women,¹⁶ a common factor in child protection notifications,¹⁷ and results in a police call-out on average once every two minutes across the country.¹⁷

The combined health, administration and social welfare costs of violence against women have been estimated to be \$21.7 billion a year, with projections suggesting that if no further action is taken to prevent

¹⁴ ABS Personal Safety Survey Australia 2005 op.cit.

¹⁵ ABS 2017 personal Safety Australia 2016 ABS Cat No 4906.o Canberra ABS and Diemer K 2015 Personal Safety Survey: Additional Analysis on Relationship and sex of perpetrator. Documents and working papers. University of Melbourne

¹⁶ AIHW 2018 Family, domestic and sexual violence in Australia 2018 Cat No FDV 2 Canberra AIHW

¹⁷ ABC News 16 Jul 2018, 10:54am

violence against women, costs will accumulate to \$323.4 billion over a thirty year period from 2014-15 to 2044-45.¹⁸

Children and young people are also affected by violence against women. Exposure to violence against their mothers or other caregivers causes profound harm to children, with potential impacts on attitudes to relationships and violence, as well as behavioural, cognitive and emotional functioning, social development, and – through a process of ‘negative chain effects’ – education and later employment prospects.¹⁹

a. Homicide

Of the 185 domestic homicides recorded between July 2008 and July 2010, 66 per cent were classified as intimate partner homicides.²⁰ Three in every five Australian homicides during this period occurred in a residential location (61 per cent)—the majority in the victim’s home. Domestic homicides accounted for just over half (53 per cent) of these incidents. This suggests the most likely scenario for the homicide of an Australian woman is at home at the hands of an intimate partner.²¹

b. Health

Domestic violence has severe and persistent effects on physical and mental health. VicHealth determined that domestic violence was the leading risk factor contributing to death, disability and illness in Victorian women aged 15 to 44 years.²² Physical injury is common as a result of domestic violence. Two in every five women in the IVAWS who experienced intimate partner violence reported that they were injured in the most recent incident of violence. The most common types of injuries were bruises and swelling, cuts, scratches and burns. However, 10 per cent suffered broken bones or noses, 6 per cent sustained head or brain injuries and 6 per cent internal injuries. Some 29 per cent of those who sustained injuries were injured badly enough to require medical attention and 30 per cent of women felt that their life was in danger in the most recent incident. This was more likely for incidents involving previous partners (35 per cent) than for current partners (15 per cent).²³

The health consequences of domestic violence can endure long after the violence ceases. The Australian Longitudinal Study on Women’s Health found that women who have experienced domestic violence rate their health as poorer and use health services more frequently than other women, even after they are no longer exposed to the violence. The effects of domestic violence also have a cumulative impact on a person’s mental health.

¹⁸ Price Waterhouse Coopers Australia (PWC) 2015 A high price to pay: The economic case for preventing violence against women

¹⁹ Frederick J and Goddard C (2007) Exploring the relationship between poverty, childhood adversity and child abuse from the perspective of adulthood, Child Abuse Review 16

²⁰ A Chan and J Payne, op cit

²¹ ibid

²² The health costs of violence: measuring the burden of disease caused by intimate partner violence Victorian Health Promotion Foundation Melbourne 2004

²³ Mouzos and Makkai op.cit.

An analysis of ABS data examining associations between mental health and gender-based violence (GBV), including intimate partner physical violence demonstrates that women who experienced GBV reported a higher level of severity and co-morbidity of mental disorders, increased rates of physical disorders, greater mental-health related dysfunction, general disability and impaired quality of life. Women who had experienced GBV also reported higher rates of past suicide attempts.²⁴

Domestic violence also has a detrimental impact on the mental health of men who experience it. Some suggest that the stigma associated with experiences of domestic violence may be particularly marked for men and that they experience significant psychological symptoms. Domestic violence is also associated with Post-Traumatic Stress Disorder (PTSD), depression and suicidal ideation.²⁵

c. Children

Children and adolescents living with domestic and family violence are at increased risk of experiencing emotional, physical and sexual abuse. There is no doubt that domestic violence has an impact not only on adults, but also on children who may witness the violence. Children witnessing or²⁶ being exposed to domestic violence has been increasingly recognised as a form of child abuse, both in Australia and internationally.

Research on children exposed to domestic and family violence indicates that there are a range of impacts that these children are likely to experience, among them:

- mood problems including depression
- anxiety
- trauma symptoms
- increased aggression
- antisocial behaviour
- lower social competence
- temperament problems
- low self-esteem

²⁴ S Rees, D Silove, Tien Chey, L Ivancic, Z Steel, M Creamer et al., Lifetime prevalence of gender-based violence in women and the relationship with mental disorder and psychosocial function *Journal of American Medical Association* 306 (5) 2011

²⁵ A Randle and C Graham A review of the evidence on the effects of intimate partner violence on men *Psychology of men and masculinity* 12 (2) 2011

²⁶ K Richards, Children's exposure to domestic violence in Australia *Trends and Issues in Crime and Criminal Justice* 419, June 2011

- the presence of pervasive fear
- loneliness
- school difficulties
- peer conflict
- impaired cognitive functioning, and
- increased likelihood of substance abuse.

Researchers note that such social, behavioural, cognitive and emotional effects may also have a lasting impact on education and employment outcomes.²⁷

d. Homelessness

Domestic violence remains one of the leading causes of homelessness, accounting for 32 per cent of all clients receiving assistance from specialist homelessness services in 2011–12. Women affected by domestic violence are more likely to cycle in and out of homelessness as they attempt on multiple occasions to leave an abusive relationship.²⁸

Housing is critical for survivors of domestic violence. In a study of women's economic wellbeing during and following domestic violence, women nominated finding safe, affordable, appropriate accommodation post separation as their single biggest concern. Costs associated with leaving the family home were substantial, including relocation and storage costs. Women's housing difficulties also had flow on effects for other aspects of their financial situation. Trying to find accommodation is time consuming and stressful and must necessarily take priority over other needs, such as education and employment.²⁹

Domestic violence is also a factor in for young workers. The National Youth Commission Inquiry into Youth Homelessness found that family breakdown and conflict, including domestic violence, were common factors precipitating homelessness. Researchers have found one third of young people, including those in the workforce left home because of family violence, which in most cases had occurred over a long period of time.³⁰

e. Economic impact

At a national level, the costs of domestic violence are substantial. In 2009 the National Council to Reduce Violence against Women and their Children (NCRVWC) estimated that violence against

²⁷ Richards op.cit.,

²⁸ ABS Personal Safety Survey 2012 and R Braaf and I Barrett Meyering, seeking security: women's economic wellbeing during and following domestic violence Australian Domestic and Family Violence Clearinghouse, Sydney 2011

²⁹ ASU (NSW ACT Services branch) booklet 'What it takes to leave' 2016 and A Spinney, Home and Safe? Policy and practice innovations to prevent women and children who have experienced domestic and family violence from becoming homeless: final report AHURI 2012

³⁰ S Mallett, D Rosenthal, D Keys and P Myers, Moving Out, Moving On: key findings, key Centre for Women's health in Society in partnership with the Office of Housing, Dept Human Services, Melbourne 2004

women and their children, including both domestic and non-domestic violence, cost the Australian economy \$13.6 billion. The report argued that without action, an estimated three-quarters of a million Australian women will have experienced violence by 2021–2022. Based on this level of reporting, the estimated cost to the Australian economy would be around \$15.6 billion, with domestic violence accounting for \$9.9 billion of this figure.³¹ In an earlier report, ACCESS Economics estimated the cost of domestic violence in Australia during 2002–03 at \$8.1 billion, including \$3.5 billion in costs attributable to pain, suffering and premature mortality.³² In the most recent authoritative report by KPMG, (2015–16), the financial cost of violence against women and their children in Australia was estimated at \$22 billion³³

On an individual level, domestic violence creates complex economic issues for women and their children and disrupts their lives over the short and long term. Regardless of their prior economic circumstances, many women experience poverty as a result of domestic violence. These difficulties hamper their recovery and capacity to regain control over their lives. Domestic violence directly affects women's financial security in key areas of life: debts, bills and banking, accommodation, legal issues, health, transport, migration, employment, social security and child support.³⁴

While we strongly support the Government's actions in legislating for universal access to domestic violence leave, it is for these reasons that we submit 10 days of leave is essential and that the leave must be paid.

5. Surviving and leaving violence takes time and costs money

As we have said previously, it is important to understand that as Rosie Batty said, no matter how nice your house is, you can experience domestic violence – it does not discriminate according to postcode, culture or language group, religion, educational standard or workplace.

Women living with violence need to work for many reasons:

Women who are working are more able to cope. Often being able to go to work allows them the only time in the day when they know that they are safe. It also allows them to talk with other people – to be told that they don't have to continue to live with violence and to find help to escape.

Many women resign or are terminated from their jobs because they need to take time off work to deal with injuries to themselves and their children, or to attend appointments with counsellors, police, real estate agents etc, or because the perpetrator of violence will not allow them to leave the house. If a woman living with violence leaves her job it is much harder for her to find help or to leave that violence.

³¹ NCRVWC and KPMG management and Consulting. The Cost of Violence Against Women and their Children Canberra 2009

³² ACCESS Economics. The Cost of Domestic Violence to the Australian Economy Canberra 2004

³³ KPMG 2016 op cit

³⁴ Braaf and Barrett Meyering op.cit

Equally, where women are forced to choose between the financial security of their paid employment and undertaking the activities associated with making safe arrangements for themselves and their children (such as attending ADVO and court related matters) they are often unable to attend these vital lifesaving appointments.

Like everything in life, it is much easier to survive and to escape violence if you have time and money.

For working people who are living with violence, paid domestic violence leave is important:

- While they are living with violence – before they leave
- At the time they make the decision to leave – in fact it can be the reason that a person does make the decision to leave
- After a person leaves a violent relationship

a. When a person is living with violence

Many people who are living with violence have children who may also be experiencing violence.

- This will mean that in most cases a woman who is living with violence will have expired all of her available leave entitlements (annual leave, sick leave etc) because over time she will have needed to take this time off work to deal with her own injuries or those of her children, or because the perpetrator of violence would not allow her to leave the house to go to work, or because she has needed to attend appointments with her children at school, counsellors, doctors etc. She may also have needed to take time off work so that her children are not left alone or left alone with the perpetrator of violence – to protect her children.
- Children may be affected not only by physical assault, but also by witnessing (usually) their mother and siblings assaulted.
- The mother and children may need medical attention or even hospitalisation. They may also need to see counsellors if they are experiencing vicarious trauma from witnessing family violence.
- Appointments for women and/or children with specialist counsellors, doctors or even hospital can mean that the woman who is working will need to take time off work to attend those appointments – both for themselves and also for their children.
- It is usually impossible for women and children who are living with violence to get ‘permission’ from the perpetrator to attend these appointments, or to be given money to pay for these services, so the woman needs her own income to enable her to seek professional help for herself and her damaged/injured children.

- If a woman takes time off work and does not deliver her expected income to her violent and controlling partner, this often exacerbates the violence and also alerts the perpetrator to the fact that their victims are seeking assistance – again a common factor in initiating and escalating violence.
- Many people who live with violence do not only experience physical violence, but also control over their finances. The perpetrator of violence will often want their victim to work so that they bring in an income, but will then control that income, so that their victim is unable to have any freedom or independence and is unable to escape their control.

This list is indicative rather than exhaustive but makes clear that it is very difficult for a person to arrange to leave a violent relationship without a secure job and paid leave.

b. When a person is preparing to leave violence

Paid DV leave allows a person to continue to have an income – so not attracting attention from their violent perpetrator – while they take time off work to seek counselling or attend appointments with police etc. in order to plan an escape. In many cases it may take many appointments or meetings with police, housing department, CentreLink, refuge staff, counsellors etc. to finally achieve an escape from violence. It is essential for both the woman and her children that the family is kept together, and that 'normal' life is resumed as soon as possible. Before a person is able to leave a violent relationship, they will need to organise:

- A safe place to live. This is extremely time consuming as the Sydney rental market is saturated.
- A safe place for children to attend school
- A safe place for their children to attend childcare
- Legal advice
- Transport so that they can continue to go to work. This may mean buying or hiring a car, or paying fares on public transport so that children can attend school and the mother can attend work and other appointments (lawyers, police, counsellors etc)
- Transport so that they can leave the violent household (this may involve organising and paying for a removal truck and removalists to assist)
- Paying bond on a new rental property
- Paying bond on utilities – gas, electricity, telephone at the new home
- Buying new school uniforms, books, etc. for school aged children

- Paying in advance for child care placements
- If it has not been possible for the person to leave with their belongings, they will need to purchase essentials for themselves and their children – new clothing, new beds, new kitchen utensils, food, laundry equipment, cooking equipment, toys for young children, bed linen, towels, school books etc., if children are older they may need a laptop, sporting equipment etc. or other equipment for school
- If a person has pets, then it is important that the pets are kept with the family, particularly if there are children – so this also means purchasing pet food etc.
- In addition to the cost of these goods that must be moved or replaced, it is also extremely time consuming

All of these arrangements are more difficult in a regional or remote location. There are always fewer services and they are always further away, so women planning or trying to leave violence need more time to attend appointments with counsellors, police, lawyers etc.

- Women in regional and remote areas also need to move further to escape violence as in small or isolated communities it is essential to be physically as far as possible from the community where the perpetrator and his network are able to find her.
- This is also a major issue for women and children who experience violence in ATSIC and CALD communities and in closed faith-based communities. Women and children who are escaping violent relationships in these communities may have language difficulties that make it extremely difficult and time consuming to find appropriate support and advice. They may need to travel very long distances to access services and to escape identification and stalking behaviour etc.
- For these women and their children, it is essential that they have time to seek and access appropriate services and sufficient funds to pay for travel to appointments or safety outside the community or the region.

c. At the time of escape

It is recognised by all professionals in the sector and by the available research that the most dangerous time for a woman and her children living with violence is when they try to escape. Many women have been living in domestic violence for some time, trying to keep themselves and their children safe while they try to consider their options. The nature of domestic violence means there can be a serious incident which happens suddenly without warning.

- Police may attend and make an application for an ADVO with an 'exclusion' condition which prevents the defendant from returning to the home. As a result, women find themselves

suddenly responsible for having to pay the whole amount of the rent, utilities, food etc. without having had the opportunity to prepare for such an event.

- They and their children may have injuries and are directed by police to attend the Forensic Medical Unit to have their injuries documented for evidence, which takes hours. They are then required to attend court, sometimes on multiple occasions, taking further leave from work which is often unpaid.
- Even if women ask police to remove the 'exclusion' condition, police will generally not do so. Women without access to paid leave will be at risk of accruing rental arrears pretty quickly as they wait for Centrelink applications, Start Safely applications etc. to be processed.

Paid DV leave allows women the opportunity to plan to leave, to take action to leave and supports them after they choose to leave. It also allows women who had yet to make a decision and who find themselves facing a new living arrangement some financial security as they navigate service systems.

d. After a person has left violence

- Unpack into the new home and assist children to settle in to new routines and new services – children will often be traumatised and afraid to attend a new school, child care placement etc. and may want their mother to attend with them.
- Children are often traumatised and unable to settle into new schools. They often have problems at school that require their mother to attend the school to deal with behavioural problems, ill health, emotional problems, learning issues etc. Women are also required to attend schools, childcare and clubs to discuss safe arrangements for children including authorised persons for collection of children and plans for the school's ability to monitor and identify warning signs in children regarding trauma and other child protection related matters.
- If police are involved, it will be necessary for the woman to attend multiple appointments with police to provide witness statements, evidence of assaults, medical records etc. These statements and records require hours of work and must be done at a time when the attending police officer and doctors are on duty and available.
- Usually there will be a need to attend court for AVO's and often also the Family Court for access and property related issues. These court attendances also involve appointments with lawyers, police, court appointed counsellors etc. and court dates will always be protracted.
- In many instances, perpetrators fail to attend court, or seek multiple adjournments so that women must arrange time off work, child care etc. so that they can attend court only to find that it has been cancelled, postponed again.
- These issues related to court do not end quickly. Most women who have survived and left a violent relationship report that court hearings often continue for more than 3 years.

- There is also significant evidence of perpetrators using ‘revenge AVOs’ against survivors which a woman is often forced to attend to defend.

Again, this list is indicative rather than exhaustive but makes clear that it is very difficult for a person to leave and remain away from a violent relationship without a secure job and paid leave. While the immediate crisis of leaving violence may be over, the ongoing pain continues for most women and their children. The implications of having lived with and survived a violent relationship extend for many years, particularly when there are children. Appointments with counsellors etc. often continue for many years. They are time consuming and can be costly. A woman who is working will not be able to access ‘free’ community services in many instances and so will need to locate and pay for the supports that she and her children need. This will often require taking time off work and is prohibitive if the woman is not working.

e. Financial and other costs of leaving violence

There are many financial costs to leaving violence. Costs will depend upon how quickly a person leaves, how many children and their age, how far a person must go to escape, what resources are available in the current and new location, what personal supports the person has etcetera. Of course, if the person has employment and a supportive employer, then a person is more likely to consider leaving violence and is more likely to successfully leave and establish a new and safe home.

i. Moving house

- Truck hire: \$170 (week day) \$260 + fuel and tolls for day hire of a moving van on a weekend.
- Truck + driver (no labour): Around \$60 per hour plus fuel and tolls to hire a truck with a driver
- Removalist: Around \$70 per half an hour plus fuel – removal only, no packing included (depending upon the distance to be moved and how much to be moved)
- Removalist Interstate or regional move: approximately \$3,500+
- Plus take a day off for on site assessment and quote by removalist
- Gas & Electricity: \$50 - \$180 depending upon provider and area
- Phone line: \$90 - \$299 depending upon provider and whether or not there are existing connections
- Solicitor: Around \$2,500 to sell + buy a new home
- Plus take at least one day off to meet with loan provider and at least one day off to meet with solicitor

- Rental properties: Usually require 4 weeks rent in advance as bond, plus first two weeks rent up front
- Depending upon what suburb, and whether you rent an apartment or house, a minimum of around \$500 per week in Sydney's western suburbs. It could cost more if you tell the agent that you have pets and/or children. It will certainly be much more difficult if you admit to never having rented previously, not having an independent income, or previous violence or property damage at a rental property or leaving a property at short notice – all very likely where there is domestic violence.
- It will take many appointments to inspect and be approved for a rental property. It is not unusual for up to 30 property inspections. These must be at the agent's convenience, so often require taking time off work.

ii. Legal fees

- Solicitor for family law, AVO, property settlement, access/custody arrangements: Depending upon complexity of issues, around \$300 per hour consultation fees
- Around \$5,000 for court appearances. This does not include barristers' fees or other disbursements that may apply
- It may take years for property settlements, child access/custody disputes and may take months for AVO's and other criminal proceedings. This will mean taking days off to appear in court, meet with lawyers, police, court counsellors and other counsellors

iii. Child care and schools

- Child care and pre-school: all outstanding fees must be updated and cancellation fee of 2 – 4 weeks or forfeit bond: Depending upon age of children, number of children, centre and area, around \$1200 per child
- Bond on new childcare centre: Depending upon which centre and which location, a city child care centre average cost is \$600 per week per child with 2 – 4 weeks in advance to be paid. Most child care centres charge a premium for babies and pre-toddlers. Child care rebate usually reimbursed one month in arrears, so an initial outlay of at least \$1,200 plus similar amount to current centre.
- It will take at least one day off work to meet with current child care centre to arrange cancellation, payment of fees etc. It may take several days and many phone calls to find and make arrangements with a new child care centre
- For older children it will be necessary to take at least a day off to transfer from one to another school.

- Even public schools have school fees averaging \$500 - \$1,500 each, depending upon the age of the child and what subjects are chosen.
- School uniforms: Depending upon the age of the child and what sports and other subjects are chosen (e.g. cooking, manual arts, fine arts, music etc.) uniform costs will vary.
- Average public school fees: \$500 - \$700 per child
- School fees for private schools are considerably higher, and where it is safe for a child to remain in their current school moving the child could cause greater upheaval for the child.
- School books and equipment, including laptops for older children: depending upon the age of the child and the subjects chosen and other school requirements this could be around \$1,000 per child
- School bus: When a child transfers to a new school there will be a period when school bus passes need to be transferred or are unavailable. School bus costs to the local public or Parish school could cost around \$20 per week per child

iv. Counselling

Depending upon the specialty and the complexity, counselling for children and adults can be very expensive and will take many months in most instances.

- Psychologist: initial consultation \$250+
- Counsellor: Around \$240+ initial consultation
- Psychiatrist: Around \$500+ for first consultation then per hour (many do not bulk bill)
- GP: \$80 - \$160 for a short or long consultation with a GP

Each counselling session will require time off work – both for the counselling session itself (usually one hour), plus time to pick up children from school/childcare and return them, plus time to deal with behaviour difficulties that often arise associated with family violence and accompanying counselling and moving house, school, child care etc.

v. Essential goods in a new home

- Kitchen utensils
- Food
- Medicines
- Beds

- Ben linen
- Bathroom equipment, including towels etc.
- Toiletries for the woman and her children
- Laundry equipment
- Clothing for the woman and her children

Depending upon the number and age of children and the location of the new home, even buying these from op shops or other second-hand providers will be expensive. A very minimum set up cost of \$5,000 for a new home with children is expected. Regional areas without access to op shops and second-hand providers could be more expensive.

The expense of setting up a new home will also vary according to whether the woman has been able to take any belongings with her when she leaves. Her belongings are likely to have been damaged, destroyed or taken from her before she leaves. She is likely to not be able to return to her home to collect belongings and perpetrators rarely provide access to women who have left them. There will be many other expenses according to the individual circumstances of the woman and family concerned. How far the woman needs to move and how quickly she needs to do so will impact on the cost and the amount of time involved. This list is indicative rather than exhaustive but makes clear that it is very difficult for a person to leave a violent relationship and live safely without a secure job and paid leave.

f. Other things that take time

A woman leaving violence will need time off work to do many things at the time when she actually leaves the violence:

- Find potential new rental properties or locate a refuge – time necessary will depend upon how far the woman needs to go to escape and if she has her own transport
- Attend interviews for refuges
- Attend interviews and ‘viewings’ for up to 30 rental properties before finding a suitable and affordable new safe home
- Pack up her own and her children’s belongings – this may have to be done very quickly while a perpetrator is away from the house at work etc, or may require several attempts to collect essentials and hide them or relocate them over a period of time
- Move her belongings to the new location

- Speak with utilities and arrange connection and bonds – water, gas, electricity, telephone, internet etc.
- Talk with her children's schools to arrange transfers
- Locate and talk with her children's new schools to arrange transfers
- Talk with her children's childcare centre/Family Day Care etc to arrange transfers
- Locate and talk with her children's new childcare centre/Family Day Care etc to arrange transfers
- Talk with her children's current sporting groups, music teachers, scouting groups, art classes, counsellors, doctors, and specialists etc to arrange transfers
- Locate and talk with her children's new sporting groups, music teachers, scouting groups, art classes, counsellors, doctors, and specialists etc to arrange transfers
- Go to the bank to change bank accounts: this may take several visits and must be done during work hours
- Go to CentreLink to arrange to change personal details or apply for benefits. This will take many visits and must be done during work hours
- Locate and meet with police, solicitors, legal aid/community legal centre/DV court support workers etc. There are likely to be many of these interviews and meetings, particularly when preparing to leave and at the time of escape. There will be more interviews necessary if the woman and/or her children have been injured, or if there has been property damage or other criminal damage or activity

This list is indicative rather than exhaustive but makes clear that it is very difficult for a person to leave a violent relationship and establish a safe, secure life for themselves and their children without a secure job and paid leave. There will be many other time-consuming activities when living with or leaving violence. Most, if not all must be undertaken during working hours.

It is also very important to remember that many women and children live with violence for a long time before they leave, so there will be countless times when a woman is not able to go to work because the perpetrator will not allow her to leave the house, will not allow her to have money for fares to work, when she is fearful for her children's safety, and so stays home to protect them, when she and/or her children are injured and must go to doctors, hospital, or are kept at home and are too injured to attend work.

Just as anyone can find themselves living with violence, anyone can find themselves having to pay to survive and to leave violence. It is expensive – not only in terms of money, but also

time and the long-term traumatic impact on a person – particularly when that person is a parent.

Providing paid leave to a person so that they can keep their job and leave violence is the best way to ensure that a person has the opportunity to leave and the opportunity to live – it is not an ‘option’ – it is quite literally a matter of life and death.

What our members say: Carla is a 50 year old woman with an MBA and two children. Her husband is a high achieving, successful businessperson. After a long marriage in which Carla supported her husband’s business ventures, she returned to work. Carla states that her husband became physically violent soon after. ‘When he first attacked me physically I was completely traumatised. I couldn’t believe it. When I look back there had been a pattern of emotional abuse over many years. For example, he did not like me receiving any attention and regularly made comments that undermined my confidence, so that I constantly doubted myself. I guess I had just lived with it.

I kept what was happening to me hidden from my work because I was trying to maintain a demanding and high-profile executive position. My husband physically attacked me but then threatened suicide. I was constantly anxious for my own safety and for his. Because I had just started my job I was still in my probation period and was scared of losing my job. It was very important to me that I felt I was competent and achieving at work because at home I was constantly being undermined and rapidly losing all self-confidence.

My husband stopped paying the mortgage or any other bills, so I needed to keep my job to support myself and our two children. When I told him that I was leaving, he froze our joint bank account. I had to lie to cover up that I had no money – something that I had never experienced in my life.

My employer was lovely, but I felt so ashamed and was terrified of losing my job. I also felt incredibly guilty because I couldn’t perform in the way that I wanted to or that they needed me to. I was trying to juggle my job, court, counsellors and children while I was trying to sort out my finances and find somewhere safe to live.

I started to take a lot of sick leave. I had never taken sick leave before but I found that I just couldn’t cope physically or emotionally and was having real trouble coping with the effect on my children. I worked as much as I could, whenever I could.

I felt I couldn’t do my job but that I couldn’t ask for more leave, so I left the job that meant so much to me. I had to sell our home to pay off our debts and now live in a small 2 bedroom apartment. I can’t help my own children in the way that I had hoped and planned. I lost my home, have no savings, no career and have to be extremely careful with what money I do earn.

I felt alone and humiliated. I hated being dependent on others to support myself and my children. If I had been able to keep my job I would have coped better, then and now.

I think that paid leave is important because apart from needing time to go to doctors, counsellors, lawyers etcetera; only when there is a dollar value attached will people realise what it means to people who are living with violence – and do something

g. Domestic violence is a workplace issue

Domestic and family violence is not just a private or personal issue. When an employee is living with domestic and family violence, there are often very real costs and negative impacts that flow to the workplace.

Australian and international research demonstrates unequivocally that gaining and maintaining paid work is pivotal in creating a secure financial future for both those who have experienced domestic violence and their families. However, participation in employment can be seriously undermined by ongoing abuse and its subsequent effects. For example, Australian researchers found that some women had not been allowed to work while in a violent relationship and found it difficult to enter or re-enter the workforce post separation. These findings reflect international research, which highlights how domestic violence not only acts as a barrier to education, training and employment but can also escalate when survivors seek or participate in such activities. In order to maintain control over their partners, abusers may interfere with women's efforts to become self-sufficient.³⁵ Women affected by domestic violence are also more likely to have a disrupted work history and to work casually or part-time than women with no experience of violence.

What our members say: Angela is a 40 year old woman with one child. Angela states that: Although he was frequently threatening and belittled her, her husband was never physically violent. He was extremely controlling. He took control over her bank accounts and took all of her earnings. He installed cameras and other monitors around the house so that he could watch her at all times. He frequently locked her inside the house so that she could not leave to go to work. He took her driver's licence and car keys and often refused to give her money for public transport to work. This meant that Angela was often late or could not attend work at all. Angela had done well at school and before her marriage had enrolled at university. Her husband forbade her attendance at university forcing her to work at a local supermarket. He frequently arrived at her workplace and demanded to see her, questioning her about who she was with and when she would be home. He would meet her at the end of her shift and accompany her home. He would not allow her to attend work functions after hours and would threaten both male and female colleagues if they were nearby when he arrived. He constantly belittled her by telling her colleagues that she was weak, dirty, stupid, a poor housewife etcetera. He frequently accused her of having affairs at work and would confront her colleagues with these accusations. Her work colleagues became frightened of his visits and Angela's manager changed her shift pattern and work location. It became impossible for her to participate in workplace training as her husband would not allow her to attend somewhere that he did not 'approve'. She was never able to apply for promotional positions or even for overtime, as her husband's controlling

³⁵ Ibid and also L McKean Addressing domestic violence as a barrier to work Centre for Impact Research, Chicago 2004 and also J Swanberg and T Logan Domestic Violence and employment: a quantitative study Journal of Occupational Psychology 10 (1) 2005

behaviour meant that she was totally inflexible. Finally her employer, who had always been very sympathetic, told her that her colleagues could no longer cope and she would have to leave.

Angela said: My employer was really very understanding, so taking unpaid leave was never a problem. The reason paid leave would have helped me is that it would have meant that I could have saved some money for myself without my husband knowing. I could have used this money to buy a ticket to get away and then start a new life.

The research is conclusive that women escaping and experiencing domestic violence are often the most disadvantaged and vulnerable in the labour market.

Current research increasingly demonstrates that the dominant approaches to domestic violence in Australia have been crisis oriented, necessarily focused on providing accommodation, welfare assistance and emergency support services to women and children. However, this short term, crisis focus has distracted attention and resources from assisting survivors with maintaining employment as an important factor in enabling escape from a violent relationship and the best means to facilitate financial security independent of social service agencies.³⁶

Within the population of women who have experienced violence, or are currently experiencing violence, the Australian Bureau of Statistics estimates that between 55% and 70% are currently in the workforce – that is, more than 800,000 women, or around one in six female workers. This means that a significant number of Australian workplaces will be impacted by women's experiences of domestic and family violence.³⁷

Some common costs and impacts include:

- Decreased staff performance and productivity
- Increased staff turnover and absenteeism
- Negative impact on the organisation's reputation and image.³⁸

Research into the workplace implications of domestic and family violence has demonstrated how such violence can undermine the working lives of both victims and survivors. The 2011 National Domestic Violence and the Workplace Survey found that nearly half (48%) of respondents who reported experiencing domestic and family violence said the violence had affected their ability to get to work. The main impact of violence was on work performance - 16% of victims and survivors reported being distracted, tired or unwell and 10% needed to take time off work. Further, women who experience

³⁶ S Franzway, C Zufferey and D Chung Domestic Violence and Women's Employment at Our Work Our Lives National Conference on Women and Industrial Relations 20-21 September 2007 and also M Costello, D Chung and E Carson, Exploring alternative pathways out of poverty, making connections between domestic violence and employment practices Australian Journal of Social issues 40 (2) 2005

³⁷ ABS Personal Safety Australia 2005 (Reissue) Cat. No. 4906.0 35

³⁸ Workplaces respond to domestic and sexual violence: A National Resource Centre, Impacts of violence on the workplace Adrienne Cruz & Sabine Klinger, Gender based violence in the world of work: Overview and Selected Bibliography International Labour Office, Working paper 3/2011

domestic and family violence are also more likely to have lower personal incomes, a disrupted work history, often have to change jobs at short notice and are very often employed in casual or part time work.³⁹

What our members say: Sarah is a court support worker in a Women's Domestic Violence Court Advocacy Service (WDVCAS) Sarah states: In many instances the workplace is the only place where women experiencing domestic violence feel safe. Secure paid work and financial independence are critical in enabling workers, especially those with children to leave an abusive relationship. While it is very important for a person living with violence to retain paid employment, there will also be occasions when they need to take time off work or have some flexibility in their working arrangements, particularly when they are living with or escaping violence. Paid domestic violence leave is therefore a very important part of providing women with the time to attend court hearings, provide evidence to police, find somewhere safe to live, find a new school for their children and access support services.

The perpetrator of domestic and family violence may go so far as to target the victim or survivor at work. They may do this through emails, by phone or by turning up at the office in order to try and get the victim/survivor fired or force them to resign. This can be part of an effort to increase control over the victim/survivor– that is, by increasing the victim/survivor's economic dependency, undermining their self-confidence - or in order to punish them for attempting to leave the violent relationship.⁴⁰

What our members say: Cynthia is 38 years old with one child. Cynthia states that:

When I was 24 I met a very charming and successful man who made me feel very special. I loved my job and worked in a small office. I was earning very good money, had very good promotional prospects and was studying so that I could advance my career. I was paying a mortgage on a small apartment for myself. The man who became my husband had a successful career and was very well respected in the community. We had a very happy and active social life. About 6 months after we married my husband became physically violent. I was shocked and frightened. I didn't know what to do. I was often beaten around my head and had bruises and cuts on my face, arms and body. I tried to cover these with makeup and clothing so that I could go to work. I was ashamed and very frightened but had to go to work because my husband made me pay all of the bills and kept demanding that I bring home more money. He forced me to sell my apartment and give him the money. I had nowhere that I could go to escape him.

He installed cameras and monitors all around the house so that he always knew what I was doing. Going to work was the only time that I felt safe, and it gave me a chance to find help to leave my husband. He started sending me threatening texts and emails and would call my office constantly demanding to speak with me and frightening the receptionist if I didn't answer his calls. When I became pregnant the beatings continued and I was often too injured to go to work, or my husband

³⁹ Ludo McFerran, Safe at Home, Safe at Work? National Domestic Violence and the Workplace Survey 2011 and Domestic Violence Workplace Rights and Entitlements Project, Domestic Violence and the Workplace, Employee, Employer and Union Resources (2011)

⁴⁰ Australian Human Rights Commission Factsheet: Domestic and Family Violence – a workplace issue, a discrimination issue

would stop me from leaving on time, so that I was often late. I used to lie about why I was late or not at work. I was staying awake at night to cook and clean for my husband so that he would let me leave in the morning, so I was constantly tired, sick and often injured.

He insisted on coming to our work Christmas party and one of my colleagues made a formal complaint that he had sexually harassed her at the party. I was incredibly embarrassed. When I tried to leave him, my husband turned up at work and demanded to see me. He waited for me in the car park at night time and attacked me, pulling out most of my hair. I couldn't cope any more and had no choice but to leave my job.

My husband made my life hell at home and at work. Paid leave would not have stopped my husband; but knowing that my pay would still be there would have meant I could have pretended to go to work while I was actually going to the police, or a doctor, or a lawyer or a refuge. He wouldn't have known because the money was still there. This would have meant that I could have escaped earlier I think.

6. The role of the Federal Government

It is surely the first and foremost responsibility of government to protect those who cannot protect themselves.

As part of the Australian union movement, the Australian Services Union (ASU) is committed to ensuring that family and domestic violence is recognised as a serious workplace issue. The introduction of paid domestic violence leave into enterprise agreements was achieved by the Australian Services Union (ASU) in 2010 by our Victorian Tasmanian branch. Since that time the ASU has advocated for domestic violence to be recognised as a workplace issue and for paid domestic violence leave clauses to be included in enterprise agreements, awards and through legislation in the National Employment Standards. We continue to work in partnership with workplaces to ensure that they have the tools to act responsibly and provide adequate supports to those who live with domestic violence. Unions also have a very important role in providing information and training around the need to eradicate gender inequality, that we know to be at the heart of much domestic violence.

In March this year, as part of its four-yearly review of modern awards the Fair Work Commission ruled that all workers covered by awards will now be able to access five days of unpaid domestic violence leave a year. Effective from the first full pay period on or after 1 August 2018, worker can now take up to five days unpaid domestic violence leave to deal with issues arising from the violence without losing their job. These changes took place less than one week after the New Zealand Parliament passed legislation granting ten (10) days paid leave to people living with family and domestic violence.

When introducing the new legislation, in her second reading speech, the Minister, Hon Kelly O'Dwyer told the Parliament⁴¹: *The scourge of family violence strikes at the heart of our communities and*

⁴¹ House of Representatives Hansard Thursday 13 September 2018

continues to impact far too many Australians. . . It causes great pain and anguish to those who experience it, their children and their loved ones. Its debilitating effects ripple out and compound from there. Too often it threatens workers ability to hold down a job – to provide for themselves and their families, to participate fully in the workforce and to fulfil their potential. As Minister for Women, I know that women are significantly more likely to experience family violence and deal with the consequences for their livelihoods and careers.

There would be no one who would disagree with the Minister on these points. Unfortunately, the Minister then goes on to suggest that the provision of unpaid leave for those living with violence will somehow assist survivors to leave violent relationships and start a new life. The Minister states: *...this Bill will help protect Australian workers at their time of greatest need, and in doing so support their financial security. It will ensure they can take time to deal with the impact of family violence and help overcome the obstacles it creates – confident that their job is protected while they do so. It will provide time to seek support and counselling; to involve the police and authorities; to attend court hearings; or to relocate and get re-established....*

Yet as our submission has demonstrated, all reliable Australian and international available evidence is that financial security is absolutely essential to a woman and her children if she is living with violence and at the time that she is escaping violence as well as when she is attempting to re-establish a safe and sustainable life for herself and her children.

Of course, neither the Minister nor we would suggest that providing domestic violence leave will in itself end domestic violence. However, the evidence is very clear that **paid** domestic violence leave provides survivors with an opportunity to undertake legal and medical appointments, relocation of home, school, childcare and other essential measures to address their situation without the risk of losing their job **or** income at a time when access to reliable income has been proven to be one of the most significant determinants in the decision to leave a violent relationship and remain away.

While it is difficult to quantify the extent to which the incidence of family and domestic violence is reduced by the universal availability of paid domestic violence leave, it is impossible to deny that access to paid leave to support escaping domestic violence significantly assists to reduce that incidence.⁴²

By sending a high profile and authoritative message in workplaces that domestic violence is an important problem, one which all segments of society, including employers are prepared to take action against, supports the broader change in attitudes and expectations that are essential for reducing domestic violence – and ending it.⁴³ Beyond the immediate assistance provided to survivors Legislating for paid domestic violence leave would serve an invaluable educative function. In our view, introducing a paid domestic violence leave as a protected entitlement is likely to:

⁴² J Stanford (2016) op cit

⁴³ J Stanford op cit,

- Enable domestic and family violence to be identified and acknowledged as a legal wrong in need of redress and prevention
- Raise community and business awareness about the impact of domestic or family violence
- Increase recognition of the individual and systemic implications of this issue in education, housing, employment and other areas
- Facilitate the introduction of measures to assist survivors in the workplace. For example, where a worker discloses experiences of domestic or family violence and is dismissed as an 'unreliable' employee
- Increase recognition of the issues around domestic violence encouraging adoption of policies and procedures to support victims and survivors of domestic violence in a range of community, workplace and other settings
- Assist changes to workplace culture and other environments so they become more supportive of victims and survivors
- Encourage an environment in which survivors can feel free to disclose their violent situations and the impacts with a view to seeking support and assistance to leave the abusive relationship

Legislation for paid domestic violence leave would also complement other strategies. For example:

- The *National Plan to Reduce Violence against Women and Their Children*, which recognises that all governments and the wider community must be involved to reduce (in the short term) and prevent (in the long term) violence against women in Australia
- Emerging workplace-based strategies for addressing domestic and family violence, notably inclusion of domestic and family violence clauses in enterprise agreements, especially in situations where other workplace leave entitlements have been exhausted.

Legislating to include ten (10) days of paid domestic violence leave in the National Employment Standards means it is a universal right and the best means to ensure the right and associated entitlement is extended to those without bargaining power and it cannot be "bargained off" during an enterprise bargaining process.

What our members say: Sarah is a well-qualified and experienced court advocacy worker in a women's domestic violence service. Sarah says: Most victims of domestic violence are women. They are more likely to be in part time, casual and low paid work. This means they are less likely to take unpaid leave because they simply can't afford it, particularly if they are trying to escape a violent relationship and find somewhere safe for themselves and their children. It's really expensive to escape and start a new life. If there is no opportunity for paid leave, many women won't attend court to apply for AVO's because they can't afford to lose the income that supports them and their children. This can mean that the magistrate is loath to provide the ADVO because it looks as though the woman is not interested. This means that the woman and her children have no legal protection until another application is made. have also seen conditions on ADVO's being removed in favour of the violent partner because the woman was not there to defend herself and plea for the conditions to be retained. These situations are pretty common and obviously put both the woman and her children at further risk of violence. It is also a source of enormous frustration to police who often do a great deal of work to assist but then have trouble getting statements from the victim and more trouble getting them to attend court because they can't afford the time off – even if the employer will give them unpaid leave.

Among many others, Telstra, Woolworths, Qantas, Westpac, NAB, the Retail Trades Association, Virgin Australia, IKEA, Blundstone Boots and many local councils throughout the country have paid domestic violence leave policies or clauses in their enterprise agreements. A number of state governments also have dedicated paid leave for public sector employees.

In its submission to the Fair Work Commission, the Australian Chamber of Commerce and Industry (ACCI) said 10 days of paid leave for victims of domestic violence would impose a cost of \$2 billion per year on Australian employers, equivalent to more than \$200 million for each individual day of leave. However, ACCI has admitted that their cost estimate is based on an unsupported assumption about a very high rate of use: 25% of all women employees and 10 % of all male employees making full use of the entire 10 days paid domestic violence leave every year ⁴⁴

The Australia Institute's Centre for Future Work found that only about 1.5 per cent of female and 0.3 per cent of male employees would likely use paid domestic violence leave in a year.⁴⁵ The cost would be between \$80 million to \$120 million per year for the whole economy, while PwC research has found that violence against women and their children costs Australia \$21.7 billion a year.⁴⁶

⁴⁴ The Australian Bureau of Statistics (Catalogue 4906.0, Table 4), reports that 16.9 percent of Australian women have experienced violence from a cohabitating partner (current or former), and 11.3 percent from a non-cohabitating partner, at any time since they turned 15 years of age. Those figures are not additive (since some women have experienced violence from both categories of perpetrator), so around one-quarter of women have experienced violence from an intimate partner at some point in their adult lifetimes. The corresponding figures for men are 5.3 percent and 3.7 percent, or approximately 7-8 percent combined (adjusting for those who have experienced both). The assumed ACCI *annual* utilisation ratios, therefore, match or exceed the proportion of women and men who have experienced intimate partner violence at any point in their *entire adult lives*. (reported in J Stanford Economic Aspects of paid domestic violence leave provisions)

⁴⁵ J Stanford Economic aspects of paid domestic violence leave provisions The Australia Institute Centre for Future Work (December 2016)

⁴⁶ PwC A High Price to pay: The economic case for preventing violence against women November 2015

The Australia Institute analysis found the increase in wage payouts would in fact be equivalent to less than one-fiftieth of 1 per cent (0.02 per cent) of existing payrolls. The cost to employers would be "largely or completely offset" by reduced staff turnover and improved productivity.

This means that the cost of paid domestic violence leave being introduced into the NES would be approximately 5 cents per worker per day.

What our members say: Isabella is a highly qualified and very experienced domestic violence trauma specialist. Isabella says: Workers who are survivors of DV can experience trauma and PTSD symptoms. Head injuries are common, and these obviously have a detrimental impact on their performance at work, which leads to lost productivity. It is very common that cognitive functioning can be other mildly, moderately or severely impacted. Poor concentration focus and memory problems as well as attention deficit problems, depression, anxiety and exhaustion can lead to significant reduction in the capacity to perform at work, together with unplanned absenteeism obviously this means lost productivity. These issues also impact on the ability of a survivor to participate in training or complete qualifications that would allow them to maintain or advance their career. Paid leave would mean that survivors would have a chance to escape and find a safe place for themselves and their children and then return to productive work. It would also mean that survivors would have a chance to heal properly and not be ashamed to return to work with obvious injuries. Where victims of abuse are forced to take their annual leave and sick leave this is very soon exhausted as they often take this paid leave to protect their children as well as dealing with their own injuries. This means that there is no time available to them when they try to leave a violent relationship, or when there is any other sort of normal life issue, such as catching the flu; so they are permanently run down, more likely to be bullied, less likely to be promoted and less likely to cope with work. Paid DV leave is in everyone's interests – including the employer.

7. The final word

Our submission has provided reliable and conclusive Australian and international evidence demonstrating that domestic violence has a devastating impact on workers and their families and that domestic violence can also impact a workplace. This research is recently supported in 2015 by the Australian Senate Inquiry⁴⁷ into domestic violence, which found in relation to the impact of domestic violence in the workplace that that women living with domestic violence:

- are more likely to change their job more often
- are more likely to miss out on promotions
- are more likely to resign or be terminated
- are more likely to be bullied at work.

⁴⁷ Australian Senate Finance and Public Administration Reference Committee: Domestic Violence in Australia, August 2015

Our submission is also supported by the findings of the Victorian Royal Commission into Family Violence (2016)⁴⁸ which reported in part that:

Workplaces reflect the breadth and diversity of the community and offer an important opportunity to reach people who are affected by family violence, to provide support for them, and to help them take steps to secure their safety. They are also important sites for preventing and responding to family violence because the effects of violence reach into workplaces and because attitudes and cultures that prevail in workplaces can influence the level to which violence against women is supported or condoned. ...The Commission supports workplace-based initiatives to prevent and respond to family violence.

Much work has been done to harness workplaces' capacity to deal with such violence, including through the introduction in some workplaces of an entitlement to paid family violence leave and programs to help individual staff and managers recognise and respond to the signs that an employee might be experiencing violence at home. Such programs also offer an opportunity to build a respectful and gender-equitable workplace culture.

The Royal Commission went on to specifically address the issue of paid [family] violence leave in its recommendations. It is worth noting that the Government accepted all of the recommendations of the Royal Commission and is well on the way to implementing these.

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The Victorian Government, through the Council of Australian Governments, encourage the Commonwealth Government to amend the National Employment Standards in Part 2-2 of the Fair Work Act 2009 (Cth) to include an entitlement to paid family violence leave for employees (other than casual employees) and an entitlement to unpaid family violence leave for casual employees [within 12 months].

Our submission provides important and reliable evidence that paid domestic violence leave recognises the impact of violence on workers and provides them with the time and support to access the services they need, without fear of losing their job. Paid domestic violence leave will also have a positive impact on businesses. It is estimated domestic violence currently costs the economy up to \$30 billion p.a. in lost productivity and other costs⁴⁹. In workplaces, this is evidenced by workers experiencing violence having:

- increased absenteeism and staff turnover
- decreased performance and productivity
- safety issues for co-workers if the perpetrator of violence goes to the workplace

⁴⁸ Victorian Royal Commission into Family Violence (2016)

⁴⁹ Fair Work Commission (2017)

Workplaces that provide a safe and supportive environment through the introduction of appropriate domestic violence leave clauses in enterprise agreements and associated policies and procedures very quickly become employers of choice and have higher retention rates, higher staff morale, less absenteeism and higher productivity. They also avoid the cost of recruiting and training new employees when a worker who is living with violence feels forced to leave their employer.

Unfortunately, we know that not all workplaces have a collective agreement in place or a workplace policy that provides for paid domestic violence leave. We also know that not all workers have the same bargaining power. In fact, it is often the most vulnerable workers who have the least bargaining power and no access to a paid domestic violence leave policy.

There is no argument that people living with violence need paid DV leave.

It is essential for 10 days of *paid* domestic violence leave to be legislated as a *universal* right within the National Employment Standards (NES).

Like every other social change – superannuation, paid parental leave, penalty rates, workers compensation, sick leave, anti-discrimination legislation, public education for working people, compensating for asbestos victims, getting women and children out of mines, anti-slavery legislation - it takes courage and commitment from people and it takes leadership in government.

We know why we need this, we know what is needed, we have clear and consistent research and evidence and a huge ground swell of support. Now we need political courage from leadership to make the change – there are no more excuses.

For centuries women have screamed quietly so the neighbours wouldn't hear – enough!

We won't wait because women and children *can't* wait!

8. Appendices:

What the Fair Work Commission says:

In 2017 the Fair Work Commission (FWC) rejected paid domestic violence leave on the grounds that it did not meet the necessity test as defined under the Fair Work Act. However, the Commissioners' preliminary finding was that access to unpaid FDV Leave has merit and has set down dates for timetabling possible submissions. The Commission found that family and domestic violence:

- is a significant problem that must be addressed by the community and requires a workplace response
- specifically recognises that the processes in dealing with violence (court appearances etc) are time consuming
- costs the national economy \$21.7 billion per year
- causes "manifestly unquantifiable psychological impact" on victims
- causes the loss of life

Further: ⁵⁰

[60] We accept the evidence that the provision of paid leave would assist employees who experience family and domestic violence. It would obviously reduce the financial impact of the consequences of the violence. We accept the evidence that employees who experience family and domestic violence face financial difficulties as a result of the family and domestic violence such as relocation costs or becoming a sole parent. Having to lose pay at the same time because of the need to attend to the consequences of family and domestic violence would add to the financial burden faced by these employees. We therefore, would have no difficulty in concluding that the provision of paid leave would be a desirable outcome.

[61] Further we accept the evidence that employees who experience family and domestic violence suffer economic harm as a result of disruption to workforce participation. However, we are not satisfied that paid leave is necessary to overcome this disruption. Without the availability of leave we accept that employees may see resignation as the only option. However the provision of unpaid leave would mean that employees would not have to make this choice.

⁵⁰ <https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/2017fwcfb3494.pdf>