



## McAuley Community Services for Women

A ministry of the Sisters of Mercy

6 October 2016

Committee Secretary  
Senate Legal and Constitutional Affairs References Committee  
PO Box 6100  
Parliament House  
Canberra ACT 2600  
By email: [legcon.sen@aph.gov.au](mailto:legcon.sen@aph.gov.au)

Dear Sir or Madam:

### **Migration Amendment (Family Violence and Other Measures) Bill 2016**

McAuley Community Services for Women welcomes the opportunity to provide a submission to the Migration Amendment (Family Violence and Other Measures) Bill 2016. We commend the Government on its efforts to address family violence as we see the impact and cost of this issue everyday, although we hold concerns about this Bill, including how effective it will be.

#### **About McAuley Community Services for Women**

McAuley Community Services for Women is a ministry of the Institute of the Sisters of Mercy of Australia and Papua New Guinea.

McAuley accommodates and supports women and children who are experiencing chronic disadvantage through the impact of family violence and homelessness. We work towards the prevention of further incidents of family violence and risk of homelessness and support women who are subject to homelessness through a number of key programs. In 2015 we supported 1,000 women and children through our wrap-around accommodation and support. We have around 28 houses (80-bed capacity) which we use as transitional housing before women exit either into public housing, private rental accommodation or to return home. We have supported an increasing number of women without permanent residencies, and are concerned about their lack of access to crisis payments, Centrelink or other possible payments and consequently, their access to housing and employment, thus putting additional pressure on the various welfare systems.

#### **Specific to the review**

##### **Effectiveness to assist potential victims of family violence**

The explanatory memorandum states that all sponsors in the Partner visa program will need to undertake a police check. Family violence is under-reported in Australia despite initiatives to increase awareness of the crime and improve pathways for women to report violence and access support. Many incidents of family violence are not recorded by police, nor do they result in criminal charges. Furthermore, family violence is not usually detected at the beginning of a relationship, often beginning in pregnancy.

If the individual who seeks to be a sponsor is a new citizen or permanent resident, it may be difficult to access information about any previous history of violence in their country of origin.

We question the effectiveness of the proposed amendments to assist potential victims of family violence, given the difficulties with relying on police checks for evidence of previous behaviour in these circumstances.

Adding a sponsorship framework to the family visa program may result in additional barriers for visa applicants who are already experiencing family violence, and thus leave them in a position where they are more vulnerable. This was recently acknowledged in the Victorian Royal Commission into Family Violence findings, which emphasised that the immigration status of women who experience family violence has a significant impact on their experience of that violence and their ability to leave a violent relationship.

#### **Alternative Solutions to assist migrants who experience family violence**

McAuley Community Services for Women congratulates the Government on the new Family Safety Pack, which is included in relevant grant letters by the Department of Immigration and Border Protection for men and women coming to Australia on a Partner visa, Student visas and Temporary Work (subclass 457) visas. We see this as an important initiative, aimed at addressing violence against migrant women by providing information about a woman's right to be safe and Australia's law. We particularly commend the Government on making the pack available in 46 languages, and for including two fact sheets recently on the role and responsibilities of interpreters in domestic violence situations:

- interpreting in domestic violence situations (aimed at interpreters); and
- interpreters and family safety (aimed at front line workers in the domestic violence sector).

#### **Broadening the definition of family violence**

We believe that the definition of family violence should be broadened in the Migration Regulations 1994 (Cth) to bring it into line with recommendations made by the Victorian Royal Commission into Family Violence. This will allow a person who experiences violence perpetrated by a family member other than the person's spouse to apply for the family violence exception.

Further we believe that the definition of family violence in relevant legislation should be made consistent with state and territory legislation such as the Family Violence Protection Act 2008 (Vic), and to ensure that people seeking to escape violence are entitled to crisis payments (regardless of their visa status).

Such an action would also adopt recommendations made in the Family Violence and Commonwealth Laws – Improving Legal Frameworks (ALRC, 2011) which suggested that the family violence exception be expanded to cover secondary applicants for onshore permanent visas, and holders of a Prospective Marriage (Subclass 300) visa who have experienced family violence but who have not married their Australian sponsor.

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### **In general**

We concur with the Australian Law Council which supports the policy objectives underlying the Bill which include to:

- strengthen the integrity of the family visa program, initially by applying to partner visas;
- reduce violence against women and children, particularly in culturally and linguistically diverse communities, by placing greater emphasis on information disclosure and the assessment of persons as family sponsors, consistent with Action Item 11 of the National Plan to Reduce Violence against Women and their Children,<sup>1</sup> and
- improve the management of family violence in the delivery of the program.

### **Conclusion**

We agree that there is a great need to support migrant women who experience family violence more effectively, including through migration policy. However we support the view by FECCA and the Law Council that the extension of the sponsorship framework as outlined in this Bill has possible unintended consequences for people, particularly women, who experience family violence and thus do not support the Bill in its current form.

Yours sincerely,

Jocelyn Bignold,  
CEO, McAuley Community Services for Women

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