

Second Action Plan (National Plan to End Violence Against Women and Children 2022-2032)

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Founded in 2001, the Asylum Seeker Resource Centre ('ASRC') is Australia's largest independent aid and advocacy organisation for people seeking asylum and refugees, supporting and empowering people at the most critical junctures of their journey. Our services include legal, casework, housing, medical, education, employment and emergency relief. Based on what we witness through our service delivery, we advocate for change with refugees to ensure their human rights are upheld.

Through the delivery of our humanitarian and specialised legal services including a gender clinic, we work with people whose refugee (protection) claims are based on a fear of gender-based violence including family violence (often experienced in Australia as well as their home country), sexual exploitation, abuse or trafficking, or fear of persecution due to their sexual orientation or gender identity. Our frontline caseworkers and lawyers regularly witness the systemic barriers that prevent people seeking asylum who are victim-survivors of domestic, family and sexual violence ('DFSV') from leaving violent situations and seeking safety.

We appreciate the national commitment in the First Action Plan 2023-2027 ('First Action Plan') to end gender-based violence, and the consideration of unique cohorts of victim-survivors including migrant and refugee women and women on temporary visas. While unique systemic barriers affecting this cohort were acknowledged in the First Action Plan, it does not include any actions that will address or mitigate these barriers.

The ASRC welcomes the opportunity to make a submission to the Department of Social Services and contribute to building the Second Action Plan (National Plan to End Violence Against Women and Children 2022-2032).

Our submission will focus on the marginalised cohort of people seeking asylum who are also victim-survivors of DFSV. It will address and make recommendations on service and systemic responses that will assist with prevention and the wellbeing and recovery for victim-survivors.

In doing so, this will address priority area 1: Victim-Survivors, Priority Area 2: Prevention and Early Intervention and Priority Area 5: System Integration and Workforce in the 'Evidence to action: informing direction for the Second Action Plan' Consultation Paper¹ dated May 2026.

The Second Action Plan is an opportunity to shape and coordinate a plan to "end violence against women and children and other forms of gender-based violence."² This plan should be concerned with protecting the wellbeing and recovery of all people affected by DFSV and gender-based violence, including those who have experienced it in Australia and/or those who have experienced it in their country of origin (which can form the basis of a refugee claim).³

Victim-survivors seeking asylum face barriers accessing critical services and supports, a lack of information, and the threat of forced permanent family separation and visa insecurity.

In considering how to strengthen the prevention of DFSV and improve the safety, wellbeing, healing and recovery of victim-survivors of DFSV, we recommend:

- Make changes to the protection visa process to support people who are dependants on visa applications to leave violence
- Top up funding for DFSV services that support people seeking asylum who are not eligible under their standard federal or state funding arrangements
- Access to work and study rights on their bridging visa, social security and other funded supports

These changes will enable and encourage a person to leave a violent situation and remove any systemic barriers currently preventing this.

Unique challenges

Victim-survivors of DFSV who are people seeking asylum experience the added disadvantage of experiencing visa insecurity and often a lack of rights attached to their bridging or other temporary visa. Their access to critical entitlements, such as work rights and Medicare, depends on various factors including the bridging visa they hold, the conditions attached to the visa, and what stage they are at in their protection application process (also known as the refugee status determination process).

If a victim-survivor does not have work rights, this means they also have no access to Medicare under the current law. This creates impossible choices for a victim-survivor to decide between leaving a violent situation and probable homelessness and destitution. This is even more challenging when a victim-survivor has children and needs to consider their wellbeing and whether to leave with or without their children.

Protection visa applications can take up to a decade to be decided through the protection application process.⁴ This protracted process increases a victim-survivors' uncertainty and creates

¹ <https://engage.dss.gov.au/wp-content/uploads/2026/05/second-action-plan-consultation-paper.pdf>

² <https://engage.dss.gov.au/wp-content/uploads/2026/05/second-action-plan-consultation-paper.pdf>, p 10.

³ A person can make a protection claim based on family violence or gender-based violence feared in their country of origin or family violence suffered in Australia if it means they would suffer discrimination or serious harm if returned to their home country.

⁴ The Refugee Status Determination (RSD) is the legal or administrative process by which governments or UNHCR determine whether a person seeking international protection is considered a refugee. In Australia, the RSD process involves making a permanent protection visa application which is considered by the Department of Home Affairs. If a negative decision is made by the Department of Home Affairs, the matter can be considered by the Administrative Review Tribunal for merits review, and the courts for judicial review.

additional pressures for them to consider when planning to leave a violent situation. This includes navigating the complex protection visa application process and visa insecurity for themselves and their children if they leave their partner and they were 'dependents' on the partner's protection visa application.

In this submission, we will advocate for policy changes and supports that address these unique and intersectional experiences.

Visa related issues preventing people from leaving violence

Current laws in the Migration Act create significant disincentives for victim-survivors of DFSV that are people seeking asylum to report and leave violent situations. It is critical that these laws are acknowledged and addressed alongside providing rights, social security and specialist support in order to meaningfully enable victim-survivors of DFSV to leave violent situations and seek safety.

Risk of visa cancellation as a result of reporting DFSV

Under the Migration Act, a perpetrator of family violence can have their visa cancelled on 'character grounds.' **Any engagement with the family violence protection system can trigger a visa cancellation** - even if the perpetrator is found not guilty of the family violence charges, or if they do not receive a conviction or a non-custodial sentence.

We often see the perpetrator listed as the primary protection visa applicant and his wife and children are listed as dependents on the visa application. **Under the current law, if the perpetrator's visa is cancelled, his wife and children's visas will be 'consequentially cancelled.'** This means that a wife and child who have suffered family violence will have their visas cancelled and they will be removed from Australia together with the perpetrator. This creates a perverse situation where **victim-survivors of family violence are effectively punished for seeking help** to address the violence committed against them.

This creates an impossible conflict of interest for victim-survivors, as the prospect of losing their visa and that of their children deters victim-survivors of family violence from seeking the essential protection from violence that they need, exposing both women and children to ongoing risk.

As a result of this, ASRC lawyers are unable to reassure victim-survivors of DFSV that their migration status will not be disadvantaged because they have sought help and protection from family violence. We have represented clients where the wife and child of the primary applicant, whose visa was cancelled on character grounds, also had their visas consequentially cancelled. Ironically, even after the primary applicant overcame the character issue and later had his visa reinstated, this did not automatically result in the wife and child's visas also being reinstated. A further appeal process was required to reinstate the wife and child's visas.

The current law punishes innocent family members for the crimes of their relatives and prevents victim-survivors of family violence from leaving violent situations. These 'consequential visa cancellation' provisions of the Migration Act must be amended to prevent this ongoing injustice.

Case Study

Mya* is a Burmese woman married to Kyl*, a stateless Rohingya man. They fled Myanmar and arrived in Australia by sea and are seeking asylum. Kyl started verbally abusing and controlling Mya, not letting her see her friends, forcing her to have sex with him and only allowing her to

work from home.

Mya approached our office seeking advice about the implications for her protection application and her future visa status if she seeks an intervention order or separates from her husband. Mya is ethnic Burmese and has significantly weaker claims for protection than her Rohingya husband. Under current law, her protection visa application is more likely to be refused if she separates from her husband as she will no longer be considered a dependent on his application, and will not be granted a visa when he is granted a visa. Instead, she would need to put forward her own claims and be able to establish that she is owed protection in her own right. There would be a higher chance that Mya and her children's visa applications will be refused, and that the process will be subject to delays.

Also, even if Mya stays with Kyl and seeks an intervention order requiring him to cease his violence towards her, or if he were to breach this order, this could trigger a process where the Department of Home Affairs may seek to cancel her husband's visa on character grounds due to him having breached the intervention order or committed offences of family violence against her. If his visa is cancelled, her visa, and her children's visas will also be cancelled even though she has been the victim of these crimes.

Mya decides that she will stay in the violent relationship and not seek an intervention order in order not to jeopardise her visa status in Australia.

**All names and other identifying details have been changed in case studies to protect client confidentiality.*

Recommendation 1

Amend the Migration Act 1958 (Cth) to include a provision providing legal protection from visa cancellation to victim-survivors of family violence who are dependent on the visa of a person whose visa has been cancelled.

Lack of access to DFSV protections for people seeking asylum

Under the current law, holders of (or applicants for) 20 visa classes including partner, prospective spouse or some skilled visas can still be granted or retain permanent visas if their relationship with their partner sponsor breaks down due to family violence. The family violence provisions enabling this were introduced into Schedule 2 of the Migration Regulations 1994 in recognition that victim-survivors of family violence should not feel compelled to remain in violent relationships by fear that their visa will be refused or cancelled if they leave. However, these provisions do not cover people on bridging visas, including protection visa applicants, as well as others.⁵

This means we currently have two classes of family violence victim-survivors who have different levels of legal protection based on their visa status: those who can access family violence provisions and preserve their right to a visa despite breakdown of a relationship caused by family violence, and those who cannot, and **are more likely to remain exposed to ongoing risks of family violence.**

⁵ Including 457 spouse visas; student visas; people whose temporary visas are cancelled due to actions of the perpetrator; or those who breached conditions of their temporary visa due to domestic abuse; or who are no longer 'dependent' or have ongoing family court matters related to children, and many other circumstances.

Where a relationship between protection visa applicants breaks down, the family's combined visa application is split into individual applications for each adult (with dependent children often remaining on the mother's application). Each adult applicant must then separately demonstrate that they satisfy the definition of a refugee, whereas if the family remains together, only one person needs to meet that threshold. There are times when a family's reason for fleeing their country of origin relates primarily to the persecution of one person. Another family member's application may be much weaker on its own. This can encourage victim-survivors of DFSV seeking asylum to remain in violent relationships rather than compromise the family's visa application, which could result in them and their children losing the opportunity to remain in Australia and expose them to risk of deportation. Consequently, many women and their children remain exposed to ongoing abuse in Australia.

This shows a concerning gap between how the Australian Government approaches family violence against victim-survivors who are seeking asylum or who have an insecure visa status, as opposed to the general population. It also demonstrates a lack of awareness of victim-survivors' priorities around family unity and visa security.

Recommendation 2

Enable victim-survivors of DFSV who are seeking asylum (including those on bridging or temporary visas) to access the family violence provisions in Schedule 2 of the Migration Regulations 1994.

Where victim-survivors of DFSV who are seeking asylum end a relationship while a protection visa is being processed, they should have access to the protection visa when it is granted.

Recommendation 3

Amend the Migration Act to include an overarching guiding principle that all decisions taken under the Act will guarantee family unity in compliance with Australia's international obligations. This is to ensure that victim-survivors of family violence and their children are not separated through removal, having received different visa outcomes.

Recommendation 4

Amend the Guidelines for Ministerial Intervention under s 351 and 501J of the Migration Act to include the grounds of family violence and protection of family unity. This will allow the Minister to intervene to keep survivors of family violence together with their children, even if their migration status is different.⁶

Recommendation 5

Create an exception to the Departmental requirement that a residential address is required to lodge a valid protection visa application, where the applicant is in crisis or temporary accommodation.

⁶ The Minister has personal, non-compellable powers to intervene in individual cases involving 'unique or exceptional' humanitarian circumstances. The Minister has established Guidelines for the exercise of these powers, which do not currently specify family violence or family separation as grounds for Ministerial intervention. Yet this is often the only power under which a victim of family violence can avoid separation from Australian citizen or resident children if her refugee case has failed. This is so even where she is the primary carer of those children.

Difficulties accessing essential documents

It is not uncommon for victim-survivors of DFSV to have been brought to Australia by their partners with limited understanding of why they have fled their country of origin. Victim-survivors of DFSV who are dependents on protection visa applications are often “kept in the dark” about the visa application and the legal process.

Often their partner controls pertinent documents such as identity documents and copies of visa applications, or sometimes domestic and family violence victim-survivors have to flee the family home without gathering such documents. These documents are essential to progress a protection claim, especially if they have commenced a separate application to their former partner. The documents also enable the victim-survivor to provide the Department information that is consistent with their previous protection application as a family. There is a heavy emphasis on consistent information when assessing an applicant’s protection claims, so a lack of documents will significantly disadvantage a victim-survivor’s separate protection application.

However, domestic and family violence victim-survivors are often unable to obtain copies of protection visa applications previously submitted on their behalf under Freedom of Information (FOI) processes, or they are eventually provided but heavily redacted because the Department requires the consent of the perpetrator to release the information. However, the FOI applicant, in this case being the domestic and family violence victim-survivor must obtain the consent of the other person. This process can represent a serious safety risk for DFSV victim-survivors.

Victim-survivors of DFSV may also experience interference with their postal mail or email by controlling partners and may be unable to receive communication from the Department or lawyers without putting themselves at risk. In these situations, victims of DFSV are at a heightened risk of missing important correspondence about their case such as invitations to interviews, hearings or decisions on their application, all of which come with strict, usually non-extendable deadlines.

Case Study

A year after arriving in Australia Ahmad* informed Amala* that they could not return to Bangladesh but he did not explain why. One day Ahmad gave Amala some documents to sign, he did not explain what they were and did not read them to her. Amala does not read or speak English but was too afraid to question Ahmad or to refuse. About a year later Amala was able to escape from Abdul with the help of her neighbour. She has since obtained an IVO.

Amala approached the ASRC for assistance. She did not know if she held a visa at this time, she did not have any documents, not even her passport which Ahmad kept locked away from her, as she had to flee the home quickly and without much notice. Without her passport her lawyers were unable to check what her current migration status was. ASRC assisted Amala to complete a Freedom of Information request in order to access her migration file from the Department but because Amala was a dependent on her husband’s student visa, and it was suspected that she was included in his protection visa application, she required Ahmad’s signature in order to obtain the documents. Amala was unable to obtain Ahmad’s signature given the family violence and the IVO. This led to a delay in the release of her documents.

Three months later, Amala’s file was released but many of the documents were heavily redacted as they contained information relating to Ahmad. From the limited information available, the ASRC was able to determine that Ahmad had lodged a protection visa application in which

Amala was listed as a dependent.

**All names and other identifying details have been changed in case studies to protect client confidentiality.*

Recommendation 6

The Department, the ART, the Federal Circuit Court and the legal practitioners in the area should adopt an internal policy that requires all correspondence to be sent to the email addresses of both the primary applicant and any dependents over the age of 18 to prevent challenges requesting documents under the freedom of information process.

Recommendation 7

Introduce Departmental and ART policy guidance to grant extensions of time if deadlines are not met due to family violence. Sometimes victim-survivors of DFSV become homeless or have only emergency housing and do not have a stable address at which to receive their mail, or they may be unable to continue to afford internet access or phone packages to receive notifications by email or telephone. Other times violent partners interfere with victim-survivors' access to post and notification of decisions, resulting in them missing important hearings or deadlines

Barriers to refugee claims based on DFSV

DFSV and these other types of gender-based violence feared in the country of origin can form the basis of a person's claims for protection under the Refugee Convention and the Migration Act, providing there is a fear of 'serious harm' and strong evidence of ineffective state protection available in that country. Similarly, a person who has suffered family violence in Australia and, as a result, faces severe discrimination, hardship, or further family violence if returned to their home country, can also seek protection in Australia on that basis.

Decision makers in the RSD process are often poorly equipped to deal with claims relating to family violence. When considering claims based on family violence in the applicant's home country, decision makers at the Department or the ART (at the merits review stage) will first decide whether or not they accept the victim-survivor's account of having suffered family violence.

Often victim-survivors do not have evidence of their experiences of family violence such as medical or police reports, images or witness statements. They may not have reported their experiences to police due to shame, fear of authorities, fear of family retribution or an absence of laws to protect against DFSV. Where the person who has experienced violence is same sex attracted, queer or trans, there is often even less likelihood that they will have reported the violence or sought assistance. In the absence of evidence, decision makers often find that claims of family violence lack credibility, especially where the applicant has not had legal assistance in presenting their claims.

Even when presented with judicially determined evidence of family violence in Australia, the Department or the ART may conclude that this is not sufficient to establish the occurrence of

family violence. Adverse findings of credibility are very difficult to overcome and can lead to the refusal of a victim-survivor's protection application.

Where the occurrence of family violence is accepted, the Department or the ART will then assess whether the applicant would receive effective protection from family violence in their home country. This involves a review of laws, policies and services available to protect victim-survivors of family violence in the home country. More countries now have specialised laws to address family violence, but typically do not have resources nor the capacity to robustly implement or enforce such laws. Often decision makers rely on the existence of such laws, or the existence of a small number of poorly resourced NGOs or shelters, to make findings that effective protection is available. Moreover, the Department will often overlook the entrenched patriarchal attitudes that influence police behaviour and result in an unwillingness to assist female victim-survivors of DFSV.

Case Study

Kamharida* is from Nigeria and had a long history of gender-based persecution including FGM as a child, then 15 years in a violent relationship, followed by sexual assault by another relative after she left her husband and sought shelter with extended family. After her arrival in Australia she applied for a protection visa on the basis that she would be at continuing risk of family and sexual violence if she was forced to return there. Her case was refused at primary and review stages because she was expected to be able to provide evidence (reports) that she had received medical treatment for her injuries and had reported the family violence she had experienced to the police. Her testimony was not considered sufficient and she was disbelieved and refused a protection visa. In the meanwhile, she met an Australian citizen and had a child with him. They later broke up due to family violence.

While her child is a recognised Australian citizen, Kamharida's only legal option at this stage is to request that the Minister intervene under non-compellable, discretionary powers to grant her a visa. Kamharida may face the terrible choice of having to leave her Australia citizen son in state care in Australia (as she is the sole carer of him and his father has no continuing involvement in his life), or take him back to Nigeria with her where he faces persecution as a mixed-race child born out of wedlock, who has a single mother who is herself at risk of further violence and lacks economic and social support. While Australia has ratified the Convention on the Rights of the Child, which requires state parties to make a primary consideration 'the best interests of the child' in any legal or administrative process that affects them and provides for a right not to be separated from parents against a child's will, there is no legal mechanism available for him to enforce his rights to remain with his mother in Australia or for her to be granted a visa on the basis that she is in effect the sole parent of an Australian citizen child and has a right to family unity.

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Recommendation 8

Issue Departmental policy and ART guidelines regarding the assessment of family violence

claims within the refugee determination process directing decision makers to give greater weight to states' incapacity to provide effective protection from family violence in practice.

The Guidance should also direct decision makers not to reject claims of family violence solely due to lack of objective evidence, and require them to take into account family violence as an acceptable and genuine reason for why a victim was unable to put forward comprehensive and consistent claims from the earliest possible opportunity.

Should the Department and the ART already receive training around family violence, we also recommend that it be mandatory for them to consider any internal guidelines on assessing family violence when reviewing a protection visa application.

Community education for prevention and early intervention

Education about respectful relationships and Australia's laws and expectations around family, domestic and sexual violence should also be made available to people seeking asylum early in their migration process. This support should be delivered through trusted, culturally competent organisations, in people's preferred languages, and should explain consent, gender equality, coercive control, financial and emotional abuse, children's rights and the support available for both people who use violence and those who experience it. Community-led, best practice models that discuss relationships and family violence through culturally familiar examples should be delivered by bicultural workers, allowing participants to explore differences between relationships in their country of origin and what is expected in Australia.

People seeking asylum can spend years waiting for their protection claims to be resolved, often while living with poverty or destitution, insecure work and housing, separation from family and deteriorating mental health. These pressures can place enormous strain on relationships and the family unit and may intensify existing risks of violence, particularly where harmful behaviours have been normalised or are not recognised as family violence. Providing culturally appropriate, trauma-informed education alongside practical support and clear referral pathways would help families to manage these pressures, and would assist both perpetrators and victim-survivors recognise harmful behaviour early and seek support before their situation reaches crisis point.

For these supports to have value, they must be accompanied by sufficient funding for appropriate early intervention and crisis services that people seeking are eligible for, so that when people subsequently recognise that they need help, it is quickly available to them.

Access to work rights, medicare, social security and other funded supports

Access to work rights

Many people seeking asylum do not have the right to work on their bridging visa, and this can occur for a range of reasons, all of which are related to Home Affairs policy and regulations. As of 31 October 2025 when the most recent statistics were available, there were 13,558 people who had applied for a protection visa and were without work rights, according to Senate Estimates. In

December 2025, there were also 1,112 who were awaiting the grant of a further BVE, meaning that they had no right to work. This is a total of approximately 14,670 people at that time.⁷

The consistent result when people are denied the right to work is that they are forced into destitution and reliance on charities. In 2025, almost all of the people accessing the ASRC foodbank had low or no income. Financial stress and unemployment can be a significant risk factor for domestic and family violence⁸, and the ASRC certainly observes this correlation in our frontline humanitarian services.

Our frontline workers also observe that women who have no work rights and no access to income are at significant risk of exploitation, financial abuse and a much higher likelihood of remaining in a violent relationship, even where their partner is Australian or has work rights. This is often because they are making the rational decision that they must tolerate violence in order to secure shelter and basic needs for their children.

Some people without work rights are able to make an application for permission to work if they can show both financial hardship and an 'acceptable reason' for any delay in the lodgement of their protection visa application. The Department of Home Affairs has no policy recognising family violence or vulnerability to economic or sexual exploitation as a valid reason for delay in lodging a protection visa application. Even where compelling evidence of family violence is put forward (intervention orders, police reports and medical evidence), victim-survivors of DFSV are often still refused work rights because they were late in submitting their protection claims. Denying a person work rights also means they have no access to Medicare under the current law. This leaves some victim-survivors of DFSV in the alarming situation of being without access to financial agency and health care and consequently unable to leave a violent situation.

Case Study

Manita* is a 26 year old woman from Malaysia. As a child, she was sold into debt bondage by her father to settle a business debt. She suffered physical and emotional abuse for many years as part of that debt bondage arrangement. The Malaysian authorities were unwilling to assist her due to her ethnicity and corruption. To help her escape this horrific situation, her mother assisted her to travel to Australia on a temporary visa.

She was sent to live with an acquaintance of her mother in regional Victoria where she was forced to work for the family in exploitative conditions. Her passport and other documents were taken from her and an application for a Protection visa was lodged on her behalf without her being given the opportunity to express her true claims for Protection. She was subsequently granted a Bridging visa C with no work rights and, as a result of being unable to lawfully work, felt trapped. After over a year living in these conditions she fled and obtained work on a fruit farm, also in regional Victoria, where she faced further exploitation including sexual exploitation. She felt unable to leave this farm and approach authorities or support organisations for assistance due to her immigration status as a person with no right to work.

⁷ SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS SUPPLEMENTARY ESTIMATES, OCTOBER 2025, SE25-0154

⁸ Our research shows a strong link between unemployment and domestic violence: what does this mean for income support?, *The Conversation*, <https://findanexpert.unimelb.edu.au/news/81618-our-research-shows-a-strong-link-between-unemployment-and-domestic-violence-what-does-this-mean-for-income-support%3F>

It has only been through extensive assistance provided by the Human Rights Law Program at the ASRC to assist her with an application for Work Rights that Manita has been able to begin lawful work. Without this legal assistance, it is unlikely Manita would have been able to navigate the difficult processes involved in requesting work rights and she would have remained highly vulnerable to further exploitation and abuse.

**All names and other identifying details have been changed in case studies to protect client confidentiality.*

Recommendation 9

Provide ongoing work rights for people seeking asylum on bridging visas for the duration of their protection visa application process, including merits review, judicial review, and ministerial intervention stages.

Recommendation 10

Amend the Department of Home Affairs policy on 'acceptable reason for delay' to include family violence as a recognised and valid reason for delay when assessing applications for work rights on bridging visas.

Access to a mainstream safety net

People seeking asylum are already amongst the most financially disadvantaged, marginalised and socially excluded in our community due to their insecure visa status, and ineligibility for Centrelink. While the Department of Home Affairs does have a financial support payment in place (Status Resolution Support Services), significant funding cuts mean that only 3% of people seeking asylum are eligible to receive it,⁹ making them destitute when they do not have work rights.

Due to their lack of rights and entitlements, victim-survivors of DFSV without income often have no choice but to continue living with a violent partner, trapping both the victim and often their children at very high risk of continuing violence. The problem of having no support and no safe housing can also result in breaches of intervention orders which will create new legal problems for both parties in the protection application process.

Where a perpetrator breaches a victim-survivors' IVO because they must live together in order to avoid homelessness and destitution (due to the lack of support and rights for victim-survivors), this not only impacts their wellbeing but also undermines the public purpose and utility of IVOs.

A simple change to a Ministerial direction could ensure all people seeking asylum can access Centrelink. Under the *Social Security Act 1991* (Cth) the Minister for Social Services has the power to designate classes of temporary protection visas as being eligible for the Special Benefit payment¹⁰, which is a payment if a person is in financial hardship and cannot access any other income support payments. The Minister for Social Services can amend the current Ministerial direction *Social Security (Special Benefit - Class of Visas) Determination 2025*, to include all visa

⁹ SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS SUPPLEMENTARY ESTIMATES, OCTOBER 2025, SE25-0160.

¹⁰ *Social Security Act 1991* (Cth) s 729(2)(g)(i).

categories held by people seeking asylum, including 'bridging visas if the bridging visa was granted to a person who applied for a protection visa.'

Providing independent financial means to all people seeking asylum is a means of preventing DFSV, whether that be through work rights or access to mainstream social support. It is clear that there is a significant link between financial stress and violence, and that financial dependence can make it far less likely that victim-survivors of DFSV will leave the home where the violence is being used. The ASRC's frontline services observe this in their daily work - with many women seeking asylum choosing to stay in violent relationships simply because they are financially dependent.

Case Study

Leila* experienced violence by her husband before they came to Australia. She travelled to Australia in 2013 after her husband had earlier abducted their two children to Australia and hid her passport. The client reunited with her husband in Australia in order to see her children again and they lodged a joint protection visa application together, but as a result of family violence the relationship broke down. As Leila did not lodge a protection visa application immediately upon arrival and family violence was not considered a reasonable explanation for delay in lodging, she was granted a bridging visa with no work rights.

A 2015 Family Law order granted the client with primary responsibility for the children with some time to be spent with the father. At the end of 2019, the client moved back in with her husband because she could not afford to support herself and her two children on her own. She and her former husband now live together in breach of the Family Law Order. As soon as the client moved in with her ex-husband she wrote to the Department of Home Affairs and Centrelink to inform them of her change in residential address, as she is obligated to do under the Migration Act. She informed Centrelink that she had not reconciled with her ex husband, but was purely living under the same roof as him out of necessity in order to meet her living expenses. As a result of this information, the client's SRSS payments were cut off because she was deemed to be part of her former partner's family unit and supported by his salary. The client cannot afford to look for new independent accommodation, and has a bag packed ready if she needs to flee the home with her children again.

**All names and other identifying details have been changed in case studies to protect client confidentiality.*

Recommendation 11

The Minister for Social Services should make a Ministerial direction to ensure all people seeking asylum can access Centrelink.

Barriers to accessing family violence services

Despite increased government funding, there remains a major shortage of emergency and ongoing secure accommodation for victim-survivors of family violence and their children. Women's safe houses and refuges can provide accommodation only for limited periods and after that, more sustainable accommodation arrangements need to be made and usually paid for by the individual.

People seeking asylum do not have access to public housing, meaning they do not have that opportunity to transition out of crisis accommodation sustainably.

As many people seeking asylum also have no eligibility for a social safety net such as Centrelink, no work rights and no other source of income, they have no capacity to pay rent and therefore cannot be readily transitioned out of emergency/short term housing into long term housing. This results in them frequently staying beyond the standard accommodation periods, because there is no sustainable way to support them to transition out. Due to this difficulty for women's safe houses and refuges transitioning victim-survivors to longer-term accommodation, many will not accommodate people who hold bridging visas with no work rights, who are without a visa.

Women's safe houses may also struggle to absorb the extra costs of providing interpreting services and accommodating food and other cultural preferences needed to properly support people seeking asylum. Women's safe houses and crisis accommodation for people fleeing violence must often hold people seeking asylum in their accommodation for a longer period than others, and more intensive case management and sometimes legal assistance is often required.

As a result, some of these organisations refuse to intake people seeking asylum for accommodation, and as a result they end up seeking support through non-family violence accommodation support services, informal support networks or even sleeping rough, sometimes also with their children. Due to the lack of targeted resourcing, many women and their children who are seeking asylum are in effect unable to access family violence services.

Providing top-up funding for services who intake people seeking asylum and temporary visa holders might be a useful way to remedy this issue, as it would fund safe house accommodation services who have the expertise to keep victim-survivors of DFSV who are seeking asylum safe when they are fleeing violence. This would ease the pressure on these services, ensuring they are able to provide care to this cohort of women, even when more case management and longer transition times are required.

For specialist services like ours who work with people seeking asylum, it is difficult to provide the level of security required when a woman has fled violence - it is much safer and better practice to simply ensure eligibility for services that are specialised in supporting people who are fleeing violent perpetrators.

Recommendation 12

Provide targeted 'top up' funding to women's safe houses and refuges when they provide services to people seeking asylum. This would assist them to hold them longer in crisis accommodation and work with them more intensively to find a pathway to sustainable independent housing.

The need for specialist DFSV services

Culturally competent DFSV services recognise that people's understandings of violence are shaped by their cultural, social and family contexts. Behaviours that services identify as coercive control, financial abuse or emotional abuse may not always be recognised as family violence by the person experiencing them, particularly where these behaviours have been normalised in their country of origin. Some people may have had little access to information about their rights in Australia, or may come from contexts where violence within the home is regarded as a private family matter rather than something that can be reported to authorities or challenged.

The consequences of seeking help can also be profound. Women who report violence may face ostracism, blame or rejection from their families and communities, particularly where separation or divorce is heavily stigmatised. They may risk losing vital social, cultural and practical support, as well as their sense of identity and belonging. Specialist services for culturally and linguistically diverse (‘CALD’) communities understand these pressures. They are able to provide interpreters where required, assist with understanding Australian systems, and have knowledge of the particular circumstances of culturally diverse people living with violence. Currently, there are long waiting periods for these specialist DFSV services and they are sometimes unable to provide support when it is most needed. Additional funding for these specialist services is urgently needed.

Recommendation 13

Provide additional funding to CALD DFSV services, to make them available around Australia and ensure that they are able to support people experiencing violence in a timely way.

Difficulties accessing legal assistance

Many victim-survivors of DFSV who are seeking asylum also struggle to access specialist migration legal assistance. Legal assistance is critical to helping victim-survivors understand how leaving a violent partner may impact their visa situation and the visa options available to them, which can often be a significant barrier to reporting violence or leaving a violent relationship.

Violent partners may control and monitor their movements making it difficult for them to attend appointments. Partners may also control family income which limits victim-survivors to free legal services only. Due to a conflict of interest, a legal service may also be unable to assist a victim-survivor who has separated from a partner, if the legal service previously represented the family. This can create difficulties due to there being limited free refugee legal services around Australia. These scenarios as well as recent cuts to government funding for legal services for people seeking asylum significantly limits the services available to victim-survivors.

Free legal assistance is a critical support that may encourage or empower victim-survivors to leave a violent situation. In the experience of ASRC’s humanitarian services, which provide casework, material aid and housing support, one of the major contributors to women feeling like they can’t leave violent situations is that they don’t know how doing so will impact on their legal circumstances or that of their partner and / or children.

Recommendation 14

Provide funding to community legal centres for free specialised legal assistance (through the National Access to Justice Partnership 2025–30) to all protection visa applicants who face family violence either in Australia or their home country, at all stages of the refugee determination process.

Conclusion

There are currently a range of systemic failures that create barriers to safety for people seeking asylum who are victim-survivors of DFSV.

Victim-survivors of DFSV who are protection applicants face a complex set of vulnerabilities due to the combined pressures of experiencing DFSV while experiencing visa and residential insecurity in Australia. Their challenges are unique because they are often required to weigh up their priorities beyond escaping a violent situation - but to also consider the possibility of becoming unlawful in Australia with children, financial insecurity, homelessness, navigating Australia with likely the lack of family support and language barriers, and a lack of government support.

This submission has highlighted some of the many barriers facing victim-survivors of family violence as well as numerous recommendations on what changes to the system and supports can help victim-survivors access safety and improve their wellbeing, healing and recovery.

We urge the Department of Social Services to use this opportunity of formulating the Second Action Plan to engage with the complex and concerning interaction between family violence protection and asylum processes.

Our recommendations would significantly assist victim-survivors of family violence facing the barriers in seeking protection, both from family violence and from being deported to countries where they may face a serious risk of harm and persecution. The recommendations also go a long way to creating consistency between migration laws and policies with the overarching priority to ensure that victim-survivors of family violence who are asylum seekers can also secure protection from police and the courts when they need it, irrespective of their visa status. These proposed changes would also very likely enjoy strong community and stakeholder support.

List of Recommendations

Recommendation 1

Amend the Migration Act 1958 (Cth) to include a provision providing legal protection from visa cancellation to victim-survivors of family violence who are dependent on the visa of a person whose visa has been cancelled.

Recommendation 2

Enable victim-survivors of DFSV who are seeking asylum (including those on bridging or temporary visas) to access the family violence provisions in Schedule 2 of the Migration Regulations 1994.

Where victim-survivors of DFSV who are seeking asylum end a relationship while a protection visa is being processed, they should have access to the protection visa when it is granted.

Recommendation 3

Amend the Migration Act to include an overarching guiding principle that all decisions taken under the Act will guarantee family unity in compliance with Australia's international obligations. This is to ensure that victim-survivors of family violence and their children are not separated through removal, having received different visa outcomes.

Recommendation 4

Amend the Guidelines for Ministerial Intervention under s 351 and 501J of the Migration Act to include the grounds of family violence and protection of family unity. This will allow the Minister to intervene to keep survivors of family violence together with their children, even if their migration

status is different.¹¹

Recommendation 5

Create an exception to the Departmental requirement that a residential address is required to lodge a valid protection visa application, where the applicant is in crisis or temporary accommodation.

Recommendation 6

The Department, the ART, the Federal Circuit Court and the legal practitioners in the area should adopt an internal policy that requires all correspondence to be sent to the email addresses of both the primary applicant and any dependents over the age of 18 to prevent challenges requesting documents under the freedom of information process.

Recommendation 7

Introduce Departmental and ART policy guidance to grant extensions of time if deadlines are not met due to family violence. Sometimes victim-survivors of DFSV become homeless or have only emergency housing and do not have a stable address at which to receive their mail, or they may be unable to continue to afford internet access or phone packages to receive notifications by email or telephone. Other times violent partners interfere with victim-survivors' access to post and notification of decisions, resulting in them missing important hearings or deadlines

Recommendation 8

Issue Departmental policy and ART guidelines regarding the assessment of family violence claims within the refugee determination process directing decision makers to give greater weight to states' incapacity to provide effective protection from family violence in practice.

The Guidance should also direct decision makers not to reject claims of family violence solely due to lack of objective evidence, and require them to take into account family violence as an acceptable and genuine reason for why a victim was unable to put forward comprehensive and consistent claims from the earliest possible opportunity.

Should the Department and the ART already receive training around family violence, we also recommend that it be mandatory for them to consider any internal guidelines on assessing family violence when reviewing a protection visa application.

Recommendation 9

Provide ongoing work rights for people seeking asylum on bridging visas for the duration of their protection visa application process, including merits review, judicial review, and ministerial intervention stages.

Recommendation 10

Amend the Department of Home Affairs policy on 'acceptable reason for delay' to include family

¹¹ The Minister has personal, non-compellable powers to intervene in individual cases involving 'unique or exceptional' humanitarian circumstances. The Minister has established Guidelines for the exercise of these powers, which do not currently specify family violence or family separation as grounds for Ministerial intervention. Yet this is often the only power under which a victim of family violence can avoid separation from Australian citizen or resident children if her refugee case has failed. This is so even where she is the primary carer of those children.

violence as a recognised and valid reason for delay when assessing applications for work rights on bridging visas.

Recommendation 11

The Minister for Social Services should make a Ministerial direction to ensure all people seeking asylum can access Centrelink.

Recommendation 12

Provide targeted 'top up' funding to women's safe houses and refuges when they provide services to people seeking asylum. This would assist them to hold them longer in crisis accommodation and work with them more intensively to find a pathway to sustainable independent housing.

Recommendation 13

Provide additional funding to CALD DFSV services, to make them available around Australia and ensure that they are able to support people experiencing violence in a timely way.

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