

Submission to the Consultation on the Second Action Plan to End Violence against Women and Children 2022-2032

Ending relational violence: a Relational Justice framework

Five principles for safety, relational continuity, evidentiary integrity and institutional accountability

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About the submitter

Dialogue in Growth and The Relational Justice Project™ contribute research, policy analysis, counselling experience and systems thinking concerning family separation, domestic and family violence, coercive control, parental alienation, family law and post-separation relationships.

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This submission responds to all five proposed priority areas. It is governed by the five founding principles of the Relational Justice Project™. Those principles shift the unit of analysis from identity categories and isolated incidents to the relational system. They require conduct, evidence, power, safety, relationships, institutional consequences and accountability to be assessed together.

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Relational Justice principles governing this submission

Relational justice is not another service stream within the consultation's existing framework. It is a different organising principle for the exercise of public power, individual responsibility, and accountability for family relationships. It holds individual responsibility and institutional accountability together. Its governing rule is to secure safety through the least relationally disruptive effective intervention, while keeping institutions responsible for implementation, review and foreseeable consequences.

These principles apply directly to violence and abuse against women and children. They address the institutional-accountability gap that arises when a person encounters several agencies, but no agency remains responsible for the combined response or its consequences.

1. Family relationships are social infrastructure

Safe and meaningful family relationships are not merely private interests. They support care, identity, belonging and social cohesion.

Policy consequence. Substantial state disruption of a beneficial family relationship requires evidence, reasons, proportionality and review.

2. Family relationships retain continuity across family configurations

Separation and family restructuring change family arrangements, but do not automatically extinguish the significance of existing relationships. Relationships may require protection, adaptation, staged repair, indirect preservation or, where unacceptable risk exists, cessation.

Policy consequence. Separation changes the form of family relationships but does not, without evidence of unacceptable risk, make them disposable.

3. Relational harm is real harm

Violence, coercive control, intimidation, manipulation of relationships, unjustified severance, institutional delay, procedural exclusion and the use of legal or administrative processes as instruments of harm can damage identity, belonging, memory, continuity and intergenerational connection. These harms are not identical in prevalence, severity or consequence; each must nevertheless be visible and assessable.

Policy consequence. Assessment must consider violence and coercion as well as avoidable severance, manipulation of relationships, process abuse, institutional delay and procedural exclusion.

4. Evidence requires equity and integrity

Conduct, context and consequences—not labels—should guide decisions. Claims of domestic violence, coercive control, parental alienation and other relational harms must be assessed impartially, using evidentiary standards appropriate to the conduct alleged and applied consistently.

Policy consequence. Material claims must carry source attribution and evidentiary status, remain contestable and be capable of correction where inaccurate.

5. Institutions must be accountable for avoidable relational harm

Courts, police, child-protection authorities and services alter family relationships through decisions, omissions, delays and enforcement practices. Relational power carries relational responsibility.

Policy consequence. An institution making or supervising a decision that alters family relationships must identify responsibility for implementation, enforcement, review and response to foreseeable consequences.

Executive summary

The Second Action Plan is unlikely to improve substantially on its predecessor if it intensifies the same gender-led organising model while adding services, coordination and enforcement. Additional activity does not itself demonstrate improved safety for women and children. Greater integration can reproduce the limitations of the existing model more efficiently unless the theory guiding assessment also changes.

The central proposition of this submission is that relational power abuse is not a gender category. It is a social and relational phenomenon expressed through conduct: a person uses violence, coercion, fear, dependency, a child, a valued relationship or an institution to dominate another person or destroy a safe and beneficial relationship.

Its forms, severity and population distribution vary. Its existence and responsibility in an individual case cannot be determined by sex, gender or another population characteristic.

Population evidence remains essential. It shows that women experience some serious and lethal forms of violence at higher rates, and should shape prevention, service capacity and initial screening. It also shows that men experience partner violence and abuse, including violence and abuse by female partners.

Population patterns cannot establish who used relational power abusively in a particular family. That requires case-specific evidence.

Relational justice therefore places domestic-violence coercion and parental alienation, a form of coercive relational exclusion, at the same level of analytical recognition. This does not assert equal prevalence, identical conduct or equal severity. It means that neither category is presumed true or dismissed in advance. Each is treated as a possible manifestation of relational power abuse and assessed through the same requirements of source attribution, evidence, context, proportionality and review.

The victim-perpetrator distinction is indispensable when describing an established and instrumental act, and assigning responsibility. It becomes misleading when converted into a permanent identity applied to every relationship and contested event. A person may be victimised in one context and use relational power abusively in another. Available evidence shows that coercive behaviours occur across gender boundaries and family configurations. Recognising that complexity does not mutualise all violence or erase asymmetry. It attaches responsibility to conduct rather than identity.

Children are not made safe simply by eliminating the parent accused of family violence, just as they are not made safe by preserving contact regardless of evidence. An allegation should trigger protection, inquiry and proportionate caution; it should not automatically become proof. Safety and relational continuity must be assessed together through the least relationally disruptive effective intervention.

The Second Action Plan should therefore:

1. adopt relational power abuse as a gender-inclusive organising concept;
2. require a common Relational Power, Safety and Continuity Assessment at key family-law, family-violence, child-protection and policing interfaces;
3. apply common evidentiary-integrity standards to domestic violence, coercive control, parental alienation, systems abuse and other alleged relational harms;
4. replace automatic relational severance with the least relationally disruptive effective intervention consistent with safety and prompt review;

5. make institutions responsible for implementation and the lived consequences of their decisions; and
6. measure sustained safety, repeat harm, child participation, relational continuity, procedural justice and avoidable institutional harm.

How the principles change the consultation framework

The five principles are not statements of aspiration to be added to the existing framework. They change how the Second Action Plan should define harm, assess evidence, select interventions and allocate institutional responsibility. Table 1 translates each principle into the corresponding shift in policy architecture.

Founding principle	Required shift in the Second Action Plan
Family relationships are social infrastructure.	Treat the safety and quality of family relationships as public outcomes, not as private matters outside violence policy.
Relationships retain continuity.	Do not equate safety with automatic contact or automatic severance. Determine the safest viable form of each relationship; cessation may be necessary where unacceptable risk is established, while preservation may also be necessary to protect a child from avoidable relational harm.
Relational harm is real harm.	Recognise domestic-violence coercion, parental alienation, process abuse and avoidable institutional severance as assessable forms of relational harm.
Evidence requires equity and integrity.	Replace identity-led credibility and rival master labels with conduct-based, case-specific and contestable assessment based on evidence.
Institutions are accountable for avoidable relational harm.	Measure sustained safety and relational outcomes and assign responsibility for implementation, review and correction.

Table 1: From founding principle to policy architecture

Relational power abuse is not a gender category

A gender-led framework and a gender-blind framework are not the only choices. Relational justice is gender-informed but not gender-determinative. It uses population evidence to understand patterns, target prevention and build service capacity. It uses case-specific evidence to determine conduct, responsibility and risk. It uses outcome evidence to determine whether interventions worked.

The Australian Bureau of Statistics estimates that 17% of women and 5.5% of men have experienced violence by a cohabiting partner since age 15. When partner violence, emotional abuse and economic abuse are considered together, the estimates are 27% of women and 15% of men. The categories are distinct and should not be conflated (Australian Bureau of Statistics, 2023).

Emotional abuse provides an especially important relational context. The Australian Bureau of Statistics estimates that 23% of women and 14% of men have experienced emotional abuse by a cohabiting partner since age 15; 20% of women and 11% of men experienced it from a previous partner.

The behaviours surveyed include:

- lying to their child/ren with the intent of turning them against them;
- lying to other family members or friends with the intent of turning them against them; and
- threatening to take their child/ren away from them.

These behaviours can rupture a child's relationship with a parent and may also threaten the child's sense of security, continuity and trust.

These are not competing facts. They demonstrate why population patterns should guide policy without becoming individual verdicts.

If men are to be part of ending relational violence, policy must engage them as full moral and relational agents: capable of using violence, capable of changing harmful conduct, capable of being harmed and capable of contributing to safe relationships. Women should be treated on the same basis. Women must not be treated as collectively suspect, just as men must not be treated as collectively culpable. But gender cannot operate as either proof of harmful conduct or an exemption from scrutiny.

A plan that defines men primarily as people who use violence and women primarily as victim-survivors cannot fully recognise male victim-survivors, harmful conduct by women, violence within same-sex relationships or complex patterns in which different forms of power are used by more than one family member. The result is incomplete prevention, accountability and safety, as well as alienation from the Plan itself.

Four false binaries

Gendered domestic violence versus parental alienation

Policy debate often assumes that recognising parental alienation will discredit domestic-violence allegations, or that protecting victim-survivors requires parental alienation to be excluded from the violence framework. This is a false choice.

For this submission, parental alienation is not a syndrome, diagnosis or automatic inference from a child's reluctance to see a parent. It is a case-specific, relational hypothesis requiring evidence: that one person has used coercive, manipulative or obstructive conduct to damage a child's safe and beneficial relationship with another parent without adequate justification. It must be distinguished from justified estrangement, abuse-based avoidance, ordinary conflict, developmentally explicable preference, deficient parenting and hybrid cases.

The UK Family Justice Council's 2024 guidance provides both useful safeguards and a cautionary lesson for Australia. It rejects parental alienation syndrome, distinguishes justified rejection and protective behaviour, and acknowledges that established alienating behaviours can cause significant and enduring harm. Yet it also places domestic abuse and parental alienation in categorically different positions at the policy level, risking an evidentiary hierarchy before the individual case has been assessed. Harman, Kruk and Hines have separately argued that parental alienating behaviours should be understood as a form of family violence.

The correct response is neither automatic acceptance nor categorical denial. It is disciplined differential assessment grounded in evidentiary integrity.

Domestic-violence coercion and parental alienation should therefore occupy the same analytical level: each allegation must identify conduct, source, context, pattern of power, effect on the child and evidence supporting the conclusion. One must not be treated as inherently credible and the other as inherently ideological.

Victim versus perpetrator

The terms victim and perpetrator are appropriate when conduct has been identified and responsibility assigned. They become distorting when used as pre-existing identity categories. A person can be subjected to violence, use process abuse, manipulate a child, resist coercion, exercise legitimate protective authority or act harmfully in different relationships and at different times.

Assessment must not collapse this complexity into an assumption of mutual abuse or presume that every matter resolves into a single fixed victim-perpetrator binary, especially where cross-allegations are made. It should identify who did what, to whom, through which form of power, with what effect and on what evidence. Responsibility may be unilateral, reciprocal, differentiated or presently uncertain. The conclusion must follow the evidence.

Safety versus relational continuity

Safety is not achieved by preserving every relationship. Nor is it achieved by automatically severing a relationship once an allegation is made. Relational continuity is a protected value, not a presumption of contact. Safety is a required outcome, not a justification for evidence-free elimination. The limitation of a framework that gives one category of harm categorical priority is that it can make other coercive relational harms analytically subordinate before the evidence in the individual case has been examined. That is the risk Australia should avoid.

Where only separation or cessation of contact can secure safety, that is the least relationally disruptive effective intervention because lesser measures would not work. Where several measures can secure safety, the institution should select the option that avoids unnecessary relational destruction and should review its effects promptly.

Belief versus disbelief

Trauma-informed practice and evidentiary integrity are not opposites. An allegation should be heard respectfully, treated seriously and assessed without demanding a calm or perfectly linear account. It should also be attributed to its source, distinguished from opinion and finding, tested against available evidence and kept open to correction. Protection can be immediate where a safety assessment warrants it while final conclusions remain evidence-dependent.

Three functions of evidence

Evidence is not a single category. Different forms of evidence answer different questions, and policy error occurs when one is used to perform the function of another. A relationally just framework therefore distinguishes population, case-specific and outcome evidence.

Population evidence. Identifies distributions and patterns and should shape prevention, screening, service capacity, research and professional education. It cannot establish what occurred in one family.

Case-specific evidence. Determines conduct, responsibility, risk and the appropriate intervention in the individual family. It requires source attribution, evidentiary status, contestability and procedural fairness.

Outcome evidence. Tests whether an intervention produced sustained safety, reduced repeat harm, enabled accountability, protected the child and avoided preventable secondary harm. The Second Action Plan should require every material item used in a high-impact decision to be identified as an allegation, professional opinion, administrative record, agreed fact or established finding. Affected people should have an accessible pathway to correct material inaccuracies, subject to safeguards against intimidation and systems abuse.

Response to the five consultation priorities

Priority Area 1: Victim-survivors

Principles applied. Relational harm is real harm; evidence requires equity and integrity; institutions must be accountable for avoidable relational harm.

Victim-survivor support should be available according to experienced harm and need, not restricted by a gendered identity template or victim-perpetrator binary. Services should retain specialist responses to the gendered and lethal forms of violence identified in population evidence while ensuring that men, children, LGBTIQ+ people and others whose experience does not fit the dominant narrative can obtain recognition, safety and recovery support.

High-risk cross-jurisdictional matters should have a designated implementation lead, an accessible evidence-correction process and fixed-time review of decisions that substantially alter care or family relationships. High risk includes threats to physical or psychological safety and serious risks of avoidable relationship rupture. Both require end-to-end case management, implementation tracking and outcome measurement.

Priority Area 2: Prevention and early intervention

Principles applied. Family relationships are social infrastructure; relational harm is real harm; evidence requires equity and integrity.

Primary prevention should address gendered attitudes where evidence supports that focus, but it should not define relational violence through gender alone. Relational literacy should teach how power is exercised through fear, dependency, money, sex, technology, institutions, children and control of valued relationships.

Early triage should identify immediate danger, patterns of coercion, alienating conduct, systems abuse, risks created by delay, relationships requiring protection and information requiring urgent verification. It should direct a matter to an intervention proportionate to assessed conduct and risk rather than to the institution first approached.

Priority Area 3: Children and young people in their own right

Principles applied. Family relationships are social infrastructure; relationships retain continuity across family configurations; relational harm is real harm.

Children require protection from violence, coercive control and unsafe relationships. They also require protection from coercive interference with safe relationships, manipulation of their perceptions, abrupt and unnecessary severance, repeated institutional assessment and delay that converts temporary arrangements into permanent relational loss.

A child's views must be heard without treating them as either automatically determinative or automatically manufactured. Assessment should consider age, development, fear, care and attachment history, identity, protective relationships, possible influence, the conduct of each parent and the consequences of available interventions.

Priority Area 4: People who use violence and coercive behaviours

Principles applied. Relational harm is real harm; evidence requires equity and integrity. The Plan should stop using men and people who use violence as near-synonyms. Behaviour-change responses should remain available and accountable for men, but women who use violence, coercive control, systems abuse or alienating conduct must also be identified and offered or required to undertake appropriate intervention.

Conduct-based assessment strengthens accountability because it prevents gender, procedural position, allegation or distress from operating as proof or exemption. It also gives men a credible place in prevention: not as a collectively accused class, but as participants responsible for their own conduct and capable of supporting relational change.

Priority Area 5: System integration and workforce

Principles applied. Evidence requires equity and integrity; institutions must be accountable for avoidable relational harm.

Integrated systems require a common discipline, not a single institutional narrative. Shared information must retain its source and evidentiary status. Workforces should be trained to recognise gendered and non-gendered patterns without stereotyping individual cases; assess domestic-violence coercion and parental alienation without predetermined credibility; distinguish justified estrangement from coercive interference; and consider the relational consequences of action, inaction and delay.

Information sharing should lead to an owned implementation and review plan. Shared jurisdiction should not mean unowned responsibility.

Six recommended actions

1. Adopt a relational power-abuse framework

Define relational power abuse as the harmful use of violence, coercion, dependency, children, valued relationships or institutional processes to dominate another person or damage a safe and beneficial relationship. The definition should apply regardless of sex, gender, family configuration or family role.

Principles implemented. Implements principles 3 and 4.

2. Establish a Relational Power, Safety and Continuity Assessment

Co-design a common assessment and decision record for key family-law, family-violence, child-protection and policing interfaces. It should record conduct, source and status of evidence, power, immediate risk, dangerous and protective relationships, and the consequences of action, inaction and delay.

Principles implemented. Implements all five principles.

3. Create common evidence-integrity and correction standards

Require source attribution, clear evidentiary status, contestability and accessible correction of material inaccuracies. Population evidence may justify vigilance and protective caution but must not determine individual responsibility.

Principles implemented. Implements principles 4 and 5.

4. Recognise coercive interference with children's relationships

Require systems to assess parental alienation or alienating behaviours as possible relational power abuse while differentiating them from justified estrangement, abuse-based avoidance, ordinary conflict, deficient parenting and hybrid cases involving multiple forms of violence, abuse and coercion. The same evidence discipline should apply to coercive control, parental alienation and domestic-violence allegations.

Principles implemented. Implements principles 2, 3 and 4.

5. Require the least relationally disruptive effective intervention and fixed-time review

High-impact decisions should record alternatives, explain why the selected intervention is necessary for safety and identify a prompt review point. Urgent protection must remain available, but urgency should not convert an interim allegation-based response into an unreviewed permanent outcome.

Principles implemented. Implements principles 1, 2, 4 and 5.

6. Establish institutional ownership, outcome measurement and a demonstration pilot

Designate responsibility for implementation, response to non-compliance, renewed safety assessment and review. Commission the proposed family-law systems-abuse audit and test the complete model through an independently evaluated cross-jurisdictional pilot. Wider adoption should depend on demonstrated outcomes.

When an urgent protective intervention severs a family relationship on safety grounds that are not subsequently substantiated, the responsible institution should own the correction of the earlier decision and, where safe and appropriate, the restoration or remediation of the relationship.

Principles implemented. Implements principle 5 and tests the combined effect of all five principles.

The common decision and review discipline

Before making or maintaining an intervention that substantially affects family relationships, a decision-maker should record:

1. What conduct is alleged or established, and what form of relational power does it disclose?
2. What is the source and evidentiary status of each material claim?
3. Who faces harm, from whom, and with what immediacy and severity?
4. Which relationships are dangerous, which are protective and which may be capable of safe repair?
5. What are the foreseeable consequences of action, inaction and delay?
6. What is the least relationally disruptive effective intervention consistent with safety?
7. Who is responsible for implementation, response to non-compliance, review and the consequences of the decision?

Effectiveness is the threshold; least disruption is the selection rule. This discipline does not predetermine contact or severance. It prevents either outcome from being selected through a gender or identity presumption.

Staged implementation

Phase 1 - co-design and evidence standards. Map existing assessment, information-sharing, correction and review arrangements. Co-design the framework with women and men with lived experience, children and young people, priority communities, specialist services and relevant legal and operational workforces.

Phase 2 - audit, demonstration and independent evaluation. Commission the family-law systems-abuse audit and test the model in selected cross-jurisdictional settings without limiting emergency powers. Independently evaluate safety, repeat harm, timeliness, implementation, child experience, procedural justice, relational continuity and unintended effects.

Phase 3 - adoption only if outcomes improve. If independent evaluation demonstrates improvement, governments should consider practice, statutory and intergovernmental adoption. Responsibilities, timetable, evaluation and government response should be public.

Relevant examples supporting a Relational Justice approach to the Second Action Plan

An ABC report published on 17 July 2026 (Appendix A) described a family-law matter in which serious domestic-violence allegations were not established, an appeal was unsuccessful, and orders abruptly removed children from their mother and prevented contact. The case complicates any simple gender narrative: the parent subjected to relational elimination was a woman who had alleged violence. It also demonstrates the danger of treating safety as synonymous with the elimination of an accused or assessed parent without transparent consideration of attachment, proportionality, alternatives, implementation and review.

Pickford & Pickford (Appendix B) illustrates the danger of verdict by label. A family-violence finding operated as the decisive reason for refusing one additional night with a parent, yet the reasoning did not connect that restriction to a prospective danger for the children. The appeal also exposed procedural-fairness errors and an unsupported inference about influence on the children's views. The decision does not discredit subjective experience or impose a reasonableness test on genuine fear. It demonstrates the need to hear experience, evaluate conduct and impact in context, obtain children's views rather than infer them, and connect restrictions on relationships to evidence, safety, proportionality, implementation and review.

Conclusion

The Second Action Plan should be judged against the five Relational Justice principles. Does it treat safe and meaningful family relationships as social infrastructure? Does it recognise that relationships retain significance through separation while allowing cessation where safety requires it? Does it make every form of relational harm visible? Does it apply equitable evidence standards? Does it keep institutions accountable for the relational consequences of their decisions?

On those tests, a plan remains incomplete if gender determines in advance whose harm is visible, whose conduct is scrutinised or which relationships are treated as disposable. Population gender patterns matter, but they do not replace case-specific evidence. Domestic-violence coercion and parental alienation must not remain rival ideological categories. They must be treated as possible relational power abuses and subjected to the same disciplined inquiry into conduct, context, evidence, consequences and risk.

Accordingly, the Plan should co-design and test a gender-inclusive Relational Justice framework that uses the least relationally disruptive effective intervention, protects beneficial relationships without compelling contact, and keeps institutions responsible through implementation and review.

Selected sources

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Appendix A: Illustrative institutional application

The reported matter in brief

This de-identified media-reported scenario is included only to demonstrate the proposed decision and review discipline. It does not invite reconsideration of judicial findings and should not be treated as evidence of prevalence.

An ABC report published on 17 July 2026 described a family-law matter in which serious domestic-violence allegations were not established, an appeal was unsuccessful and orders abruptly removed children from their mother and prevented contact. The case complicates any simple gender narrative: the parent subjected to relational elimination was a woman who had alleged violence. It also demonstrates the danger of treating safety as synonymous with the elimination of an accused or assessed parent without transparent consideration of attachment, proportionality, alternatives, implementation and review.

Relational Justice analysis

1. **Relational elimination is a substantive intervention.** An order that removes children from a primary carer and prevents contact until adulthood does more than determine residence. It suggests that the safety considerations and the absence of a sufficiently compelling beneficial aspect to that relationship ruled out a remediation pathway for the excluded parent. Such an order restructures the children's relational world immediately and potentially permanently. Even where such an intervention is required for safety, its magnitude requires an explicit account of the danger being prevented, the relational harm it may cause and why less disruptive effective alternatives are inadequate.
2. **Safety and relational continuity must be assessed together.** This does not create a presumption of contact, reconciliation or shared care. Contact may need to be supervised, restricted or ceased where unacceptable risk is established. It means that the risks of violence, coercion or psychological harm must be assessed alongside attachment, care history, developmental needs, protective relationships and the consequences of abrupt separation.
3. **Evidence requires equity as well as integrity.** Trauma, fear and prolonged litigation may affect how a person gives evidence. A fragmented, distressed or difficult presentation neither proves nor disproves abuse. At the same time, professional concern, compensation, an allegation and a judicial finding have different evidentiary status. A relationally just process distinguishes the source, status and weight of each claim without converting courtroom presentation into a verdict about conduct or parental capacity.
4. **Gender and procedural position cannot carry the conclusion.** In the reported account, the parent subjected to relational elimination was a woman who had alleged domestic violence, while the father reportedly did not seek her permanent exclusion. This does not establish that the allegations were true or that the judicial findings were wrong. It demonstrates that relational harm cannot be understood through a fixed gender binary or by permanently assigning one person the identity of victim and the other the identity of perpetrator. Responsibility must remain attached to established conduct, power, impact and risk.
5. **Institutional power carries responsibility for consequences.** The intervention was reportedly implemented within hours, despite the magnitude of the change to the children's care and relationships. Such interventions may need to occur quickly where a child's objections have been assessed as coerced or adult-influenced and immediate change is necessary for safety. The media report does not indicate that this was the basis of the intervention in this matter. The parents then had to work for months to replace the arrangements.

A system exercising power of this kind must identify who is responsible for implementation, transitional safety, monitoring the children's experience and initiating prompt review when the intervention produces serious or unintended harm.

Relevance to the Second Action Plan

This illustration is directly relevant to the consultation's priorities concerning victim-survivors, children and young people in their own right, and system integration and workforce capability. The consultation paper seeks justice responses that reduce re-traumatisation and strengthen trust, policy structures that respond to children's needs, rights and safety, and integrated systems that provide continuity of care. These objectives cannot be achieved by coordination alone. They require a common discipline for determining when institutional intervention improves safety and when it creates avoidable relational harm.

The Second Action Plan should therefore require or pilot the following safeguards at relevant family-law, family-violence and child-protection interfaces:

1. a common high-impact intervention record identifying the alleged and established conduct, evidentiary status, prospective danger, harm the intervention is intended to prevent and reasons less disruptive effective alternatives were rejected;
2. a child-specific relational impact assessment addressing the child's views, care history, attachment and protective relationships, developmental or disability-related needs, and the likely consequences of action, inaction and delay;
3. an implementation and transition plan proportionate to the urgency of the established risk, including immediate emotional and practical support for children whose care or relationships are substantially altered;
4. a requirement that trauma-informed practice support fair participation without allowing witness presentation, gender or procedural identity to substitute for findings about conduct and risk;
5. a fixed and accessible review mechanism for orders or administrative decisions that suspend contact or radically alter a child's care, without delaying urgent protective action where unacceptable danger is established; and
6. an identified institution responsible for monitoring sustained safety, child wellbeing, repeat harm, relational loss and unintended institutional consequences, and for initiating correction when the intervention is not producing the intended outcome.

Source

Davoren, H., & Miller, A. (2026, 17 July). Alleged DV victim labelled 'difficult witness', family court permanently removes children. ABC News. [Online article](#)

Appendix B: Pickford & Pickford - labels, evidence, risk and children's relationships

The reported matter in brief

This appellate judgment is a case study of why labels must not substitute for findings about conduct, evidence, prospective risk or effects on children. It does not establish the prevalence of error, diminish the seriousness of coercive control, or create a presumption of contact or equal time. It demonstrates the need for a transparent chain from evidence to classification, child-specific risk, and a proportionate and reviewable intervention.

The decision in brief

In *Pickford & Pickford* [2024] FedCFamC1A 249; (2024) 70 Fam LR 85, a five-member Full Court allowed the father's appeal from final parenting orders and remitted the question of school-term time for rehearing. The two children had spent four nights per fortnight with the father under consent orders for several years. At trial, the mother proposed no more than four nights, the Independent Children's Lawyer proposed five and the father proposed seven. The primary judge retained four nights after finding that the father had perpetrated family violence through coercive and controlling behaviour.

The primary judgment connected the family-violence finding to the time order in one decisive passage: although there was said to be little objective difference between four and five nights, the court would not expose the children to even one more night because the father was a poor role model who lacked insight. The Full Court held that this reasoning did not supply a prospective risk assessment or explain what danger would arise on the fifth night when the children already spent four nights per fortnight and half of school holidays with the father ([83]-[94]).

The appeal also succeeded because the primary judge used fresh affidavit material after refusing to reopen the evidence and without cross-examination ([72]-[76]); several coercion or control findings were not open on the material relied upon ([95]-[131]); an inference that the father influenced the children's views lacked an evidentiary foundation ([132]-[138]); and the Independent Children's Lawyer's 12-month monitoring role was aspirational and unenforceable ([139]-[150]).

A necessary correction about subjectivity and fear

The judgment does not hold that subjective fear is legally insufficient unless independently substantiated. All judges accepted that intention is not an essential statutory element, although their reasons differ. *McClelland DCJ*, and *Aldridge and Carew JJ*, treated experience and impact as relevant while holding that assertion alone cannot establish that ambiguous conduct was coercive or controlling ([15]-[39], [41]-[53]).

Austin and Williams JJ distinguished conduct that objectively coerces or controls from conduct that causes subjective fear. Genuine fear need not be objectively reasonable; their point was that the mother advanced coercion and control, not fear, for the disputed conduct ([108]-[114]). *McClelland DCJ* also held that a separate surveillance finding was open and could amount to coercive and controlling conduct ([24]-[28]). The case requires disciplined evaluation, not automatic disbelief.

Relational Justice analysis

- 1. Labels cannot carry the conclusion.** The term family violence identifies serious conduct, but cannot itself prove prospective danger or select the parenting outcome. The decision-maker must identify conduct, evidentiary status, power, impact, future risk and the consequence the intervention is intended to prevent.
- 2. Evidence requires both receptivity and integrity.** A trauma-affected, non-linear or subjective account must be heard and assessed fairly. Perception is not a substitute for factual findings where ambiguous conduct has competing explanations. The use of untested material shows

why source, admissibility, contestability and correction are relational safeguards.

3. **Children's voices cannot be inferred through adult labels.** There was no updated expert evidence of the children's views, and the influence finding rested on impression rather than evidence. Relational justice requires developmentally appropriate participation and assessment of possible influence by any person, without treating a child's view as automatically determinative or manufactured.
4. **Safety must be connected to proportionality.** If an extra night materially increases danger, the order should protect the child and carer and explain why. Without that connection, a serious label should not operate as a proxy. The least relationally disruptive effective intervention may still require supervised, limited or no contact where unacceptable risk is established.
5. **Institutional power carries responsibility for consequences.** After years of litigation, the dispositive reasoning lacked a prospective risk analysis and the Independent Children's Lawyer's implementation role was unenforceable. An identified institution must own implementation, monitoring, response and prompt review.

Relevance to the Second Action Plan

Pickford is directly relevant to the consultation's emphasis on evidence-informed action, children and young people in their own right, justice-system capability and system integration. It demonstrates that the policy choice is not between believing victim-survivors and protecting procedural fairness. A safety-first system needs both: low barriers to disclosure and support, and a rigorous, transparent process for translating allegations and findings into child-specific decisions.

The Second Action Plan should therefore require or pilot the following safeguards at relevant family-law, family-violence and child-protection interfaces:

- a common decision record tracing alleged conduct, established facts, context and pattern, impact, statutory characterisation, prospective risk, intervention and review;
- a rule that a diagnostic, legal or social label cannot substitute for the evidenced connection between conduct, danger and the restriction placed on a child's relationship;
- developmentally appropriate, current and directly obtained evidence of children's views, with influence assessed rather than presumed;
- common evidence-integrity standards covering source attribution, admissibility, evidentiary status, contestability and correction;
- an explicit comparison of the safety and relational consequences of action, inaction and less disruptive effective alternatives; and
- an enforceable implementation and fixed-time review plan for orders that substantially alter children's care or relationships, with outcome data on safety, repeat harm, child experience, delay, remittal and avoidable secondary institutional harm.

Source and paragraph guide

Pickford & Pickford [2024] FedCFamC1A 249; (2024) 70 Fam LR 85, especially [8]-[13] (safety and best interests), [15]-[53] (coercive control, impact and evidence), [72]-[76] (procedural fairness), [83]-[94] (the fifth night and absence of prospective risk analysis), [95]-[131] (challenged findings), [132]-[138] (children's views) and [139]-[150] (implementation and review).