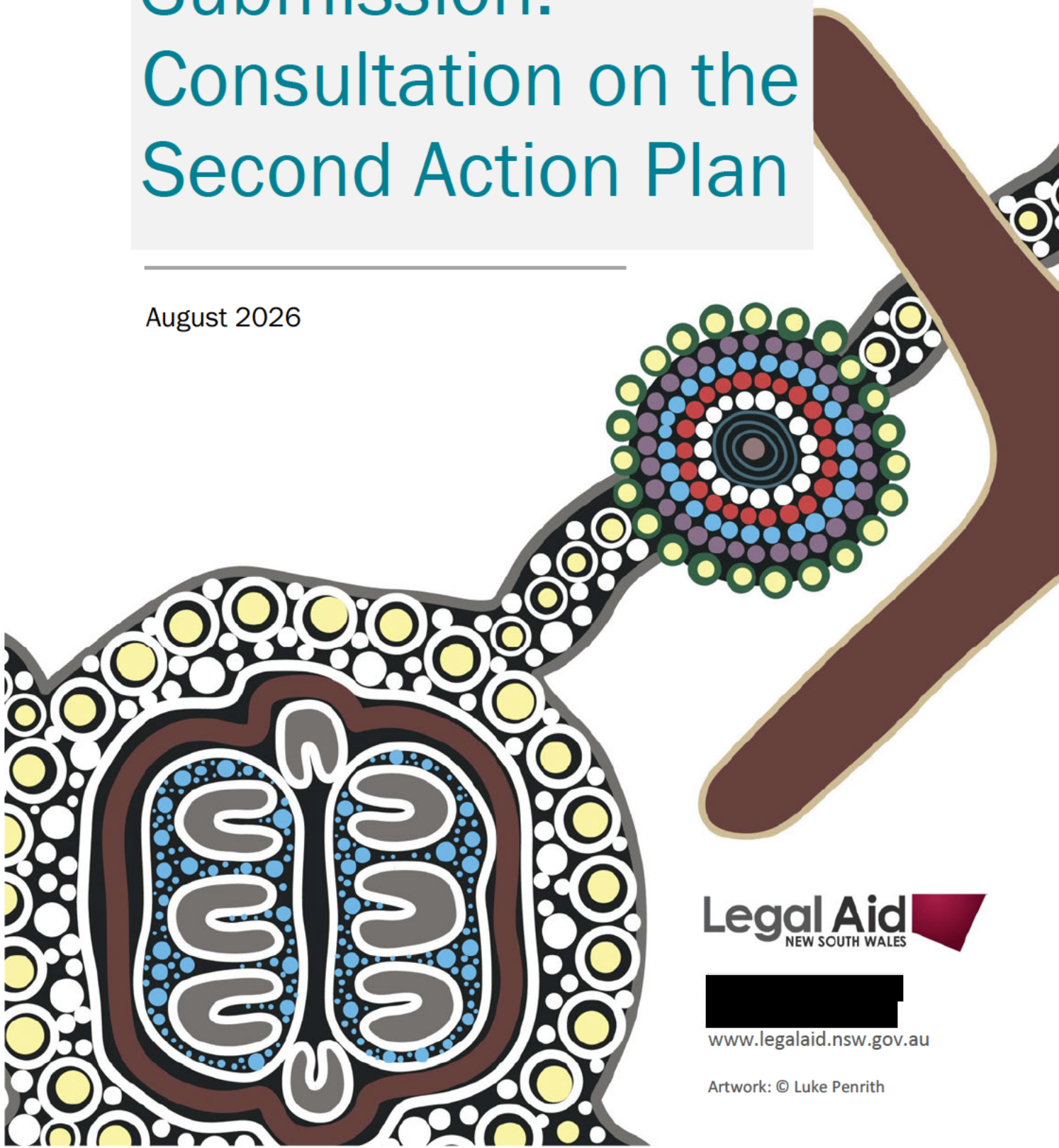


Legal Aid NSW Submission: Consultation on the Second Action Plan

August 2026



Legal Aid
NEW SOUTH WALES



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Acknowledgement

We acknowledge the traditional owners of the land we live and work on within New South Wales. We recognise continuing connection to land, water and community.

We pay our respects to Elders both past and present and extend that respect to all Aboriginal and Torres Strait Islander people.

Legal Aid NSW is committed to working in partnership with community and providing culturally competent services to Aboriginal and Torres Strait Islander people.

1. About Legal Aid NSW

Legal Aid NSW provides front-line legal assistance and support to both victim-survivors and users of domestic and family violence (DFV) across our criminal, family and civil law divisions. Specifically:

- we provide specialist services to victims of DFV, including through our Domestic Violence Unit (DVU) which is a trauma informed multidisciplinary service made up of lawyers, caseworkers, mental health workers and financial counsellors who work together to assist victims of DFV to address their legal and non-legal needs
- our Family Law Division represents victims and users of DFV and their children in matters in the family law and care and protection systems
- our Women's Domestic Violence Court Advocacy Program (WDVCAP) administers NSW Government funding to 27 non-government organisations to provide Women's Domestic Violence Court Advocacy Services (WDVCAS), the main frontline, specialist support service for female victim-survivors of DFV in NSW
- our Civil Law Division assists victims-survivors of DFV with a range of related legal issues including housing and visa issues resulting from DFV
- our specialist Elder Abuse Service supports older people at risk of or experiencing DFV in the form of elder abuse, and
- our Criminal Law Division represents people charged with DFV offences, and in some instances, defends applications for apprehended domestic violence orders (ADVOs) including for those misidentified as the primary aggressor.

[Redacted]

Acting Director Domestic Violence | Legal Aid NSW

Phone: [Redacted]

Email: [REDACTED]

2. Legal Services are an essential frontline domestic violence service

Drawing on Legal Aid NSW's frontline experience supporting more than 45,000 legal services to victim-survivors annually; Legal Aid NSW recommends that the Second Action Plan recognise legal assistance as an essential component of Australia's response to DFV and invest in system reform that improves safety, and access to justice.

Legal assistance is critical to helping victim-survivors obtain protection orders, navigate family law and child protection systems, address housing and financial issues, and avoid re-traumatisation through the justice system. Despite this central role, legal assistance remains under-recognised and insufficiently visible within the National Plan. The Second Action Plan should include a dedicated, reportable commitment to legal assistance for victim-survivors.

The Second Action Plan should position legal assistance as core DFV infrastructure, supported by sustainable funding, integrated service models, improved system responses and stronger accountability measures as they relate to response and recovery for victim-survivors.

Case study: Lucy¹

Lucy had suffered significant physical violence and controlling and coercive behaviour throughout her short marriage. Lucy was referred to the DVU urgent family law advice clinic by the family law court registry, as her ex-husband had retained their 6-month-old baby without her consent. Lucy had been brought to Australia by her ex-husband and English was her second language. Since the separation, Lucy had been isolated and then pressured into giving her ex-husband unrestricted time with the baby despite Lucy's concerns about the baby's safety whilst with her ex-husband, he had repeatedly threatened to, and ultimately did

¹ Case study has been de-identified.

refuse to return the child to Lucy. The Police advised Lucy they could not intervene and she should get family law orders.

On the same day as first speaking to Lucy, a DVU lawyer with the help of an interpreter drafted an application to urgently seek Court Orders that the baby be returned.

Over the next few hours, Lucy informed the lawyer that her ex-husband had been contacting the Police and making false allegations against her which has resulted in a standard ADVO for which a hearing has been set down in the next 6 months. Despite the Police imposing a standard ADVO against Lucy, the ex-husband was still contacting Police to the point that Police had informed Lucy that he had been warned not to contact them again as they were concerned for Lucy now.

Our lawyers were able to appear for Lucy at the interim hearing and help her to get the baby back in her care. The DVU was also able to assist Lucy to defend the ADVO proceedings against her and assist her to seek an ADVO for her own protection. DVU caseworkers worked together with the lawyer to help her access housing and mental health supports.

3. Priority Area 1: Victim-Survivors

The Second Action Plan is an important opportunity to strengthen implementation, improve coordination across systems, and focus national effort to where it can have the greatest impact for victim-survivors. It acknowledges more work is needed to strengthen a whole of society and life-course approach to prevention, early intervention, response, recovery and healing with a focus on victim-survivors from all communities and backgrounds.

Legal Aid NSW supports victims-survivors in their interactions with the justice and legal system and, as such, we focus here on the Consultation Paper's finding that more work is needed to simplify legal processes and reduce adversarial practices that can result in victim-blaming, re-traumatisation, and disengagement from the justice system. In particular, increased support for Aboriginal and Torres Strait Islander women experiencing violence is required, as the current support - including policing approaches - is acknowledged as vastly inadequate.

Legal Aid NSW supports the findings of the Consultation Paper. We argue there are two key actions which would improve the response and recovery for victim-survivors and their experience of the justice system. These are:

1. Invest in specialist, integrated and interdisciplinary legal services that work; and
2. Identify and promote best practice ADVO laws

3.1 Invest in Specialist, integrated and interdisciplinary legal services that work

3.1.1 Family Advocacy and Support Services

[Family Advocacy and Support Services](#) (FASS) provide free and confidential legal and social support to people affected by DFV who have a family law matter.

Legal assistance and social support for victim-survivors with their family law matters is of critical importance. The time following separation, and during family law proceedings, is widely acknowledged as a time of increased risk to victim-survivors. Provision of legal representation and associated social support is a key protective mechanism for victim-survivors at a crucial stage in response and recovery from domestic violence. Victim-survivors consistently report family law proceedings and access to legal assistance for the purpose of these proceedings as key to their safety and recovery. Victim survivors are 16 times more likely to encounter family law issues than the rest of the community.²

In the words of a FASS client:

"I was in a situation where I was lost and overwhelmed. I had no idea what to do. If I hadn't of been in touch with [FASS], I wouldn't of had any idea of found strength to be able to stand up."

In recognition of this key identified need for victim-survivors FASS is available nationally and administered by Legal Aid Commissions in each State and Territory, offering wraparound legal and social support for parties to matters involving DFV in family law courts.

FASS Legal

Prepared on behalf of the Family and Community Safety Branch of the Attorney General's Department in June 2025, ARTD Consultants prepared a report that evaluated the FASS. A key takeaway was; 'this investment appear to represent strong value considering the fiscal, economic and social costs of family violence'. The evaluation contained a range of recommendations, including to increase funding. At page 46, the Report states, 'the low rate of funding for duty lawyers (panel lawyers), as well as *comparatively low wages for legal aid lawyers (across the board, not only in relation to FASS lawyers)* were identified as major barriers to FASS realising potential

² Quantifying the legal and broader life impacts of domestic and family violence, NSW Law and Justice Foundation (2019)

outcomes.’ One judicial officer was quoted in the report as saying, ‘the critical shortage of (panel) Independent Children’s Lawyers is ‘way beyond crisis point’.

FASS Social Support

Social Support services as part of FASS are provided by a team of specialist domestic violence workers to both female and male victim-survivors, as well as men alleged to have used violence. Funding for FASS Social Support services is administered by Legal Aid NSW to non-government service providers with workers paid under the *Social, Community, Home Care and Disability Services (SCHADS) Award*. The FASS has not received an uplift to base funding since 2022. Since then, the SCHADS Award has increased by over 24%. The Award increase has necessitated reductions in staffing levels and/or the number of days worked by existing FASS staff. At the same time, the demand for social support services has increased with 30% more clients accessing the services between 2022 – 2026.

As the current funding has not kept pace with the Award increases or client need, FASS Social Support staff have diminished capacity to assist clients, with the increased risk of burnout, vicarious trauma, and poor worker retention for specialist roles.

Legal Aid NSW supports increased funding of FASS in line with the recommendations of the evaluation report.

3.1.2 Co-location and Co-responder models; The NSW Police Force and WDVCS Co-Location Pilot

The WDVCS-NSW Police Force Co-Location Pilot is a partnership between NSW Police and the Women’s Domestic Violence Court Advocacy Service (WDVCAS), which is funded by Legal Aid NSW.

The Pilot aims to improve the response to women who attend a police station to report, or seek help in relation to, DFV through access to specialist DFV support staff at the station. WDVCS staff and specialist domestic and family violence workers who are based at participating police stations from 9am to 5pm, Monday to Friday.

Co-Location workers provide women at the station with information about domestic and family violence, making a report to Police, and the resulting court process. The worker will also liaise with Police in the stations and where appropriate, support women while making a statement to Police. Co-Location workers will also undertake safety planning and make appropriate referrals, for example, for housing, legal advice, or financial support.

Since its inception, the Co-Location Pilot has facilitated relationship building between DFV workers and NSW Police officers and enhanced the knowledge of operational police about DFV and the supports available.

We have identified a positive shift in victim-survivors' attitudes towards police, reduced fear of reporting and improved feelings of safety. Additionally, we have seen Co-Location provide an opportunity to rectify misidentification, with examples from pilot sites where women have been brought to the station as a defendant, then left with an ADVO for their protection.

The pilot commenced in 2022 at five police stations: Nowra, Griffith, Armidale, Kogarah and Fairfield. In 2023 the pilot was expanded to an additional five locations: Blacktown, Albury, Taree, Belmont/Toronto and Orange.

An independent evaluation of the pilot by the University of Wollongong found that:

"the Pilot is meeting its objective of improving the experience of women who attend a police station to report, or seek help, in relation to domestic and family violence. The evaluation found that co-location increases female complainants' engagement and sense of agency, whilst reducing their feelings of fear and anxiety."

3.1.3 The Domestic Violence Unit

The Domestic Violence Unit (DVU) is a specialist service within the Family Law Division of Legal Aid NSW, dedicated to supporting clients who have experienced or are experiencing DFV. The Legal Aid NSW DVU is the largest DVU in Australia. It plays a unique and critical role in bridging the gap between state-based DFV and child protection systems and the federal family law system. It is the largest specialist DFV legal practice in NSW providing continuity of legal representation across these jurisdictions, ensuring that victim-survivors receive consistent and holistic support during some of the most challenging periods of their lives.

Today, the DVU operates Statewide across NSW and employs over 70 staff. The DVU has delivered more than 100,000 services to clients who have experienced or are experiencing DFV. Over the past decade, the number of women seeking legal advice for matters related to their experience of DFV has grown by 700 per cent, with a 69 per cent increase in just the past two years.

The DVU developed the Family Violence Law Help website, which remains a national resource and the launchpad for Family Advocacy Support Service (FASS). In 2021, the DVU established a specialist service for women on temporary visas experiencing DFV, funded under the Fourth Action Plan of the National Plan to Reduce Violence against Women and their Children. In recognition of its impact, the DVU was named a finalist in the 2024 NSW Premier's Awards for Excellence in Service Delivery.

The DVU faces unprecedented demand that exceeds current capacity. Every day, victim-survivor wait for call-backs on the DVU statewide 1800 hotline highlighting the urgent need for additional resources. At present, the wait time for an advice appointment for an ADVO matter is about four weeks. This is problematic for many reasons but one of the key issues

is that critical court dates are likely to be missed whilst these victim-survivors are waiting for their appointment. While ongoing funding has been secured under the National Legal Assistance Partnership (2020–2025) and the National Access to Justice Partnership (2025–2030), further investment is essential to expand staffing and reduce wait times.

A report detailing an 'Evaluation of Domestic Violence Units and Health Justice Partnerships' drafted by ACIL Allen for the Commonwealth Attorney General's Department in 2025 has found that to "align funding to enable delivery of a full integrated, multidisciplinary approach that targets consistent experiences for all women victim-survivors. There are discrepancies in the level of access, types of service and supports women experiencing DFV can receive based on who and where they are as a result of the levels of funding. To support equitable access and consistent experience, funding must reflect both the footprint of operation, and the resources required to build and sustain the necessary integrated, multidisciplinary practices. This may need to be considered under the NAJP and future funding arrangements, with collaboration across the AGD and state and territory governments".

We support increased funding for Domestic Violence Units in line with the recommendations of the evaluation. This will enable DVUs to provide advice and representation to all victim-survivors with DFV related legal issues, particularly ADVO and related DFV legal matters.

3.1.4 The Family Law Service for Aboriginal Communities (FamAC)

Legal Aid NSW FamAC service provides advice, early intervention support, outreach and casework litigation to Aboriginal and Torres Strait Islander families.

FamAC is led by a senior team of First Nations staff and provides culturally safe, accessible legal support by bringing family law solicitors directly to Aboriginal communities. FamAC service model is regular scheduled outreach to locations with high number of Aboriginal clients and very limited legal services, outreaches include Dareton, Wentworth, Boggabilla, Toomelah, Lake Cargelligo, Condobolin, Bourke, Brewarrina and many other remote locations in NSW.

The FamAC team is also committed to delivering culturally safe, trauma informed legal support through its Aboriginal Women Leaving Custody (AWLC) program. Under this initiative, solicitors regularly attend correctional centres to provide family law advice and assistance. By meeting women where they are and walking alongside them both during and after incarceration, the FamAC team promotes informed decision-making, strengthens connections with children and family and supports safer, more stable futures.

Further investment in Legal Aid NSW FamAC service could extend legal services to more Aboriginal women in need of DFV related legal assistance, including for family law, ADVO and child protection legal issues.

3.1.5 Increased demand for family law services

In 2026 Legal Aid NSW made the difficult decision to tighten eligibility for family law representation services as a result of inadequate funding needed to maintain current levels of service delivery.

Reduced eligibility for parenting and property proceedings

Legal Aid NSW is facing unprecedented demand for family law services. From 1 July 2026, eligibility for parenting and property proceedings were strictly limited to DFV victims and Aboriginal and Torres Strait Islander people. There are further eligibility changes that will come into effect before the end of 2026 including changes that will mean Independent Children's Lawyers (ICLs) only appear in final hearings where one or both parties are self-represented.

Tightened eligibility will mean that those using or accused of using DFV will no longer be eligible for legal representation through a grant of legal aid, where they may have previously qualified.

Reduced eligibility for ICLs

The unavailability of grants of legal aid for ICLs for final hearings and for those using violence creates significant safety risks in the family law system. In particular we are highly concerned about the risks for victim-survivors (including of systems abuse) who will increasingly be required to engage with unrepresented parties to proceedings who are using or accused of using DFV. The absence of legal representation removes an important protective factor, increasing the likelihood that victim-survivors will be exposed to direct conflict, while also reducing opportunities for parties to receive advice on likely legal outcomes and for applications to be carefully assessed before being filed with the Court.

Increased funding to reverse Legal Aid NSW eligibility changes for family law representation services in NSW is urgently needed to ensure the safety of parties and children in the family law courts.

Unprecedented demand for Family Dispute Resolution

Similar to the demand for representation services in family law matters, there is also unprecedented demand for mediations organised by our Family Dispute Resolution Unit.

3.2 Changes to ADVO Law and Practice

The ability of victim-survivors to obtain a civil Court order which prevents (through criminal sanction if breached) further domestic and family violence against them is arguably the legal intervention with the most significant impact for victim-survivors in recent history. In all Australian States and Territories such a legal framework operates. In NSW the legal

framework is the *Crimes (Domestic and Personal Violence) Act 2007* (CDPVA). In NSW this civil order is called an Apprehended Domestic Violence Order (ADVO).

In NSW, 52,757 ADVOs were commenced in 2025, protecting 75,828 people, with a total of 107,830 ADVOs active during the final quarter of that year. This is in comparison to 25,393 charges for DFV offences, 326 charges for the offence of coercive control.³

Because ADVO's impact such a large number of victim-survivors, reforms to ADVO law and practice are likely to improve the legal system experience of a greater number of victim-survivors than reforms in other areas of law, including those relating to criminal offences. The Second Action Plan is an important opportunity to strengthen implementation, improve coordination across systems, and focus national effort on best-practice ADVO law and practice.

ADVO law and practice varies considerably in each State and Territory and therefore victim-survivor experience of the ADVO law and legal system varies considerably depending on where they live. We recommend the Australian Government, working with states and territories through the Second Action Plan, seeks to review the operation of each of these ADVO legislative frameworks and determine:

1. Key components of the legislation;
2. Key practices related to the legislative framework (Judicial, police, legal practitioners and support services); and
3. Funding arrangements for supports and legal services to access ADVO protections.

This review should assess the extent to which these elements contribute to increased safety, improved victim-survivor experiences of the justice system, and better outcomes for victim-survivors.

We further recommend that the Australian Government support the adoption of best-practice ADVO systems across Australia, including legislative and practice elements identified as contributing to improved safety and victim-survivor outcomes.

Further work is also required to ensure that ADVOs are Nationally recognised and applied, acknowledging the work already done to improve cross-jurisdictional registration.

In determining best practice ADVO frameworks, focus should be given to the following key areas.

³ Accessed July 2026; [Domestic violence & coercive control | BOCSAR](#)

3.2.1 Increased victim-survivor agency in ADVO proceedings

Legislation that increases victim-survivor agency improves the protected person's experience of the ADVO process, reduces secondary trauma, decrease disengagement with the ADVO and other justice processes, and promotes trauma-informed practice.

Where victim-survivors have a say in the court order and conditions of the order that protect them they are more likely to engage with legal protections intended to keep them safe.

Where victims have the right to be heard by the Court and the right to their own lawyer to advise and represent them in ADVO proceedings they are more likely to engage with the legal system and obtain orders that address their specific safety needs, tailored to their unique circumstances.

Consideration should be given to the availability of legally-aided representation for victims of DFV in each State and Territory ADVO system.

3.2.2 Reduced misidentification

Misidentification is a term used broadly in circumstances where the person perpetrating DFV is wrongly identified as a person experiencing DFV or as being most in need of protection, or where the person experiencing DFV or most in need of protection is wrongly identified as a person perpetrating DFV.

The inappropriate use of legal sanctions against victims of DFV (predominantly women) who either are wrongly accused by the perpetrator of DFV as using violence or who use violence in response to a significant pattern and history of violence perpetrated against them has been of concern to advocates and legislators nationally and internationally for decades and is an issue routinely identified by Legal Aid NSW in our frontline work.

Legal Aid NSW frequently encounters incidents of a victim of DFV being identified as perpetrators in situations with conflicting claims of violence or apparent mutual violence resulting in police intervention. This can present in relation to criminal charges, ADVOS or both. The impacts of misidentification can be severe and far reaching. Treating victims as perpetrators can have severe consequences. In our experience it:

- undermines a victims' confidence in the legal system and police
- denies victim-survivors support and risks colluding with or reinforcing perpetrators narratives of control
- increases risk to safety, and
- can result in the removal of children from a victim's care, or result in children being left in the care of a perpetrator.
- Some States have enacted legislative provisions within ADVO legislation to identify and rectify misidentification at the earliest opportunity. Legislative

frameworks with specific provision for misidentification are likely to improve the victim-survivors experience of the ADVO process and increase safety.

In addition to specific misidentification provisions in legislation; legislation which relies on the definition of DFV as the basis on which an ADVO is made, as opposed to seeking to identify specific offences for the basis of the civil order is likely to encourage police practice which seeks to identify DFV and understanding it as an underlying pattern of coercion and control, rather than a specific offence or an incident based approach, which may be more likely to result in misidentification.

3.2.3 Inclusion of non-physical forms of domestic violence and coercive control

ADVO legislation has a significant impact on policing of DFV and broader understanding in the community of what DFV is and what behaviours are not permissible in families, domestic relationships and intimate partnerships.

Legislation that defines DFV and uses that definition to form part of a threshold test for making an ADVO may have benefits such as forming the basis for training for professionals, including police, on what to look for when considering if DFV has occurred, reducing misidentification and secondary trauma, promoting trauma-informed practice and increasing safety and protection.

4. Priority Area 2: Prevention and Early Intervention

Noting the Consultation Paper's findings regarding healthy parenting from father figures as a key protective factor against future use of DFV, Legal Aid NSW strongly supports greater availability of Men's Behavioural Change Programs (MBCP) across NSW and culturally appropriate MBCP.

Legal Aid NSW strongly supports increased availability of supports to address harmful substance abuse and gambling noting the complex intersection between rigid gender roles and other influences on DFV.

Legal Aid NSW strongly supports increased consistency and availability of training for child protection workers on DFV and in particular the Safe and Together training and model adopted in many jurisdictions. Further, consistent definitions of DFV in relevant child protection legislative frameworks may assist and guide case workers to make decisions.

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

We recognise children and young people as victim-survivors of violence in their own right and support efforts to improve data collection measures to better collect evidence relating to child victims of DFV. We also support increased services for children and young people that recognise their unique needs and that are not dependent on the engagement of a protective parent in all cases.

Legal Aid NSW has three specialist children's legal services that provide direct advice and representation to children in relation to their legal issues (often related to DFV) in criminal, civil and family law matters. We also provide specialist best interests-based representation for children in both the family law and care and protection jurisdiction.

We note the importance of specialist and tailored approaches towards children and young people who use DFV – as distinct from adults using violence. We have observed a need for diversion and therapeutic interventions and the complex interplay between children experiencing and using violence.

We support increased funding to expand WDVCAS and legal services for specialist support to child victim-survivors or persons in need of protection in ADVO matters. We also support specialist youth-focused legal services.⁴

6. Priority Area 4: people who use violence

The Consultation Paper outlines data limitations on the prevalence DFV of perpetration. Legal Aid NSW acknowledges the finding that DFV and other forms of gender-based violence overall is most frequently perpetrated by men and that there is a complex interplay between trauma, harmful substance use, mental health issues, gambling and violence against women and children.

We support a whole-of-society and life-course response to DFV supported by the Consultation Paper. Responses and services to those using violence is an important aspect of the effort to reduce and eliminate DFV.

Providing high-quality legal services to people using or accused of using DFV is not only an essential function of Legal Aid NSW and a cornerstone of a free and fair society, but it in itself can also be a form of harm reduction and or prevention.

⁴ [Legal Aid NSW submission – Inquiry into Youth Justice \(2026-03\)](#)

Legal advice for those using or accused of using violence is important to ensure they understand the legal consequence of their behaviour / allegations, including any applicable criminal offences and ADVO conditions. This can help prevent future offending and breaches of ADVOs. Legal advice can also facilitate the identification and addressing of related contributing factors, such as harmful substance use.

Legal representation for those using or accused of using violence can also be a key pathway for connection with MBCP and other behavioural interventions, preventing future violence.

Legal Aid NSW is committed to providing all our lawyers and client facing staff with the training and tools required to understand the evidence base on DFV risk, including factors which elevate risk and techniques to avoid inadvertently increasing risk in the course of their work.

Providing people using and accused of using violence with safe, non-judgemental and high-quality legal services is an important part of a DFV response.

7. Priority Area 5: System integration and workforce

The Consultation Paper finds that practitioners outside of domestic violence specialist services are becoming increasingly knowledgeable in recognising and responding to physical and emotional abuse. However, it also finds that these practitioners need more support to identify financial and sexual violence and abuse and additional support to increase confidence.

Whilst Legal Aid NSW remains a universal service for the purpose of risk assessment and management, we provide tailored DFV training for all solicitors undertaking legally aided work. We also provide specialist training for those primarily assisting those using or accused of using violence and those primarily assisting victim-survivors of DFV.

Legal Aid NSW has received recent Commonwealth and State investment to pilot a Sexual Violence Community Justice System Navigators program, embedding specialist sexual violence navigators in the Women's Domestic Violence Advocacy Court Service (WDVCAS) and additional resources for Legal Aid NSW's Sexual Assault Communications Privilege Service and DVU to support victim survivors of sexual violence.

Our specialist expertise in identifying and responding to DFV within a legal assistance setting enables Legal Aid NSW and the DVU to act as a secondary source of advice, training and expertise for other parts of the legal profession and justice system.

However, we acknowledge that ongoing training is needed across the legal professionals, police, courts, child protection and related sectors in NSW on DFV dynamics, trauma,

coercive control, misidentification and non-collusive practice. Sustainable workforce funding is a key component to enable services to recruit, train and retain specialist legal and support practitioners.



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