

Submission on the Second Action Plan under the National Plan to End Violence Against Women and Children

August 2026

Acknowledgement of Country

This submission was written on the lands of the Wurundjeri and Bunurong peoples of the Kulin Nation. We acknowledge and pay our respects to Aboriginal and Torres Strait Islander peoples and Traditional Custodians throughout Victoria, including Elders past and present. We also acknowledge the strength and resilience of all First Peoples women and children who are impacted by family violence and child removal at rates far higher than other Australians.

Contents

Legal assistance – more than just a lawyer	2
Summary of recommendations for the SAP	3
Increase access to family law legal assistance to better respond to family violence	5
Legal assistance is critical to improving responses to family violence for children and young people in their own right	11
Recognise legal assistance as a vital part of the system that protects women and children from violence and supports their recovery	14
Invest in First Peoples-led responses to violence against women and children and coordinate initiatives across intersecting national action plans	17
Ensure the plan has measurable goals and it is easy to track progress towards these goals..	19
About Victoria Legal Aid	19

© 2026 Victoria Legal Aid. Reproduction without express written permission is prohibited.

Written requests should be directed to Victoria Legal Aid, Community Legal Information and Corporate Services, GPO Box 4380, Melbourne VIC 3001.

www.legalaid.vic.gov.au

Connect with Victoria Legal Aid



Submission on the Second Action Plan under the National Plan to End Violence Against Women and Children

Thank you for the opportunity to provide a response to the consultation on the Second Action Plan (SAP) under the National Plan to End Violence Against Women and Children 2022-2032 (National Plan).

Victoria Legal Aid (VLA) plays a leading role in the provision and coordination of family law, family violence, child support, child protection, sexual harassment and discrimination and victims' legal services across Victoria. We represent people who have used family violence and people who have experienced family violence, including children. In 2024–25 we supported around 12,400 people with their family law matters, providing 9,129 duty lawyer or advice services, 2,662 grants of aid for adults and 1,242 grants for Independent Children's Lawyers. Our Equality Law Program provided over 1000 legal advice services to victim-survivors of discrimination, sexual harassment and/or violent crime.

Legal assistance – more than just a lawyer

We see a critical need for legal assistance to be embedded across the SAP. Legal assistance is a key lever to prevent and respond to violence against women and children but is significantly hampered by chronic under-resourcing.

Only 8% of households across Australia meet the financial eligibility tests for legal aid, while 14% of people live below the poverty line.¹ This gap has remained static for over a decade.²

The recent *Rapid Review of Prevention Approaches* (Rapid Review) to end domestic, family and sexual violence found that investment in public legal assistance is a 'clear mechanism for preventing future—and often irreparable—harm, including harm escalating to homicide. It must therefore be an area of urgent attention'.³

Legal assistance involves far more than a lawyer at court. It is someone who can guide a victim-survivor through fragmented government systems and processes they must navigate to stay safe, alongside the family violence system. It is someone to ensure a woman and her children's needs are visible to systems and decision makers. A person they can rely on to support informed decision making, explain options and make sure documents are completed correctly.

Sustained investment in family violence prevention and response should mean there are no wrong points of entry for victim-survivors seeking assistance. In practice, though, we see lots of doors for victim-survivors to knock on, but very little – often nothing – behind them in terms of legal help.

Long-standing under investment in legal assistance means victim-survivors of family violence need to be in extreme poverty to access legal aid. The significant shortfalls in funding mean we can only help a small proportion of victim-survivors and only for some of their journey to safety – providing duty

¹ Impact Economics and Policy (2023), *Justice on the Brink*, p. 15, confirming the earlier findings of the Productivity Commission (2014) *Access to Justice Arrangements, Inquiry Report No. 72*, Canberra, p. 20. Also see ACOSS and UNSW (2025) [Poverty in Australia 2025: Overview](#), p 9.

² Campbell, E., Fernando, T., & Gassner, L. (2024) [Report of the Rapid Review of Prevention Approaches](#): Unlocking the prevention potential: Accelerating action to end domestic, family and sexual violence. Department of the Prime Minister and Cabinet, p 82, referencing analysis by Impact Economics for National Legal Aid.

³ Campbell et al (n 2), p 67.

lawyer support for an intervention order application then leaving them to fend for themselves at the door of the family law system.⁴

Without a justice safety net women cannot participate safely or meaningfully in family law processes, leaving critical decisions about their own and their children's safety and finances unresolved or unsafe.

This action plan is an opportunity to change that. We understand work is also currently underway on intersecting national action plans. Legal help is a common thread that can link women and children to greater safety, economic recovery and sustainable parenting arrangements.

Summary of recommendations for the SAP

VLA endorses the recommendations made in the National Legal Aid (NLA) submission to the Consultation.

Our additional recommendations for the SAP are that, at the very least:

Recommendation 1

Under the SAP, the Commonwealth Government should increase funding for legal assistance to ensure that, at a minimum, all family violence victim-survivors under the poverty line can access family law legal assistance.

Recommendation 2

The SAP should recognise systems abuse as a form of family violence that is weaponised across jurisdictions (including family law, child support, migration and social security), and that lawyers are first responders for victim-survivors of systems abuse.

Recommendation 3

Under the SAP, the Commonwealth Government should provide dedicated funding at a level sufficient to ensure that ICLs can be appointed for all children and young people who should be represented according to the *Re K* guidelines.

Recommendation 4

The SAP should promote child-inclusive mediation as a safe and effective means of providing children and young people with a voice in decision-making about their care and safety.

Increased investment in legal assistance funding (see recommendation 1) would enable legal aid commissions to offer child-inclusive mediation to more children and their families.

Recommendation 5

The SAP and the intersecting National Plans, Frameworks and Strategies should include a dedicated national action recognising family and civil law legal assistance as an essential lever

⁴ In 2024-2025, 37,471 applications for family violence intervention orders were finalised. Given the sheer volume of applications in the Magistrates' Court, our intervention order duty service can only service a limited number of protected persons and respondents each day (See [Crime Statistics Agency Family Violence Dashboard](#)).

in preventing and responding to violence and abuse.⁵ The action should identify responsible governments, funding, milestones and public reporting on access, coverage and safety outcomes.

Recommendation 6

Invest in First Peoples-led responses to address impacts, sector demand, and underlying causes of family violence, including:

- a. Community-based education and prevention initiatives informed by First Peoples' perspectives and understandings.
- b. Sustainable and ongoing funding for First Peoples legal services and support services and programs addressing long-term impacts of family violence and misidentification.
- c. Expansions of the availability and resources of existing support services and programs.
- d. Improved culturally appropriate education and training for police, courts, legal and non-legal service providers informed by First Peoples communities.

Recommendation 7

The SAP should include measures relating to victim-survivors' experiences of the justice and legal systems and misidentification, drawing on legal assistance data.

Recommendation 8

The Government should include First Peoples and other people with lived experience of violence against women and children in the design of evaluation measures and in monitoring and evaluating the impacts and outcomes of the SAP.

⁵ The intersecting plans are: *Our Ways – Strong Ways – Our Voices: National Aboriginal and Torres Strait Islander Plan to End Family, Domestic and Sexual Violence 2026-2036*; *Safe and Supported: The National Framework for Protecting Australia's Children 2021-2031*; and *National Strategy to Prevent and Respond to Child Sexual Abuse 2021-2030*.

Increase access to family law legal assistance to better respond to family violence

Summary

Women and children are often unsafe as they navigate the family law system as the vast majority of family law matters involve family violence. This makes legal assistance critical to a safe process and outcomes for victim-survivors. But very few victim-survivors are eligible for the level of legal assistance they need to resolve family law issues safely. This means victim-survivors who had found safety and the beginnings of recovery through the Victorian family violence system may face renewed risk as they navigate the family law system.

Recommendation 1:

Under the SAP, the Commonwealth Government should increase funding for legal assistance to ensure that, at a minimum, all family violence victim-survivors living under the poverty line can access family law legal assistance.

Recommendation 2:

The SAP should recognise systems abuse as a form of family violence that is weaponised across jurisdictions (including family law, child support, migration and social security), and that lawyers are first responders for victim-survivors of systems abuse.

Current state of Commonwealth legal assistance funding

The Commonwealth share of legal aid funding in Australia has significantly declined. In 2021-2022 it was just 28%⁶, roughly half of the 55% share in the 1980s.⁷

While the National Access to Justice Partnership (NAJP) 2025-2030 *appeared* to increase funding for legal assistance, in real terms, funding for family and civil law assistance has gone backwards under the NJAP in many jurisdictions, including Victoria.⁸ This is largely because fixed term funding to respond to the family law case management pathway introduced in 2021 has not been continued, despite the impacts increasing over time, rather than decreasing as initially expected.

An uplift in Commonwealth funding for legal assistance is necessary to improve gender equity in legal assistance funding. VLA's data between 2019-2023 shows that overall grants of aid are provided predominantly to men (at 64.5%) compared to women (at 35.4%)⁹ and there is a similar disparity in case expenditure. This is largely driven by 81% of criminal law grants being provided to men in contrast with 61% of family law parenting grants being provided to women.¹⁰

⁶ Price Waterhouse Coopers (PWC) (2023) [The Benefits of Providing Access to Justice](#), citing NLA data from 2021-22.

⁷ PWC (2009) [Legal aid funding: Current challenges and the opportunities of cooperative federalism Final report](#)

⁸ The overall deficit is due to previously separate initiative and project funding being rolled into base funding, and the cessation of supplementary FCFCoA case management pathway funding.

⁹ This is consistent with NLA data demonstrating that, in 2022/23 men received 63% of net legal aid expenditure while women received 37%

¹⁰ The Victorian Government gave effect to *Dietrich v The Queen* (1993) 67 ALJR 1 by requiring publicly funded legal representation in all indictable matters, when the case itself only required proceedings to be stayed until the defendant could obtain legal representation. There is no corresponding right to legal representation for a parent who may, through a family law proceeding, lose a relationship with their children into adulthood and potentially indefinitely.

This data must also be understood in the context of calls to our Legal Help line – for which all of the top five legal issues are family violence or family law related and for which women are 61% of the recipients. This demonstrates the high level of need in these areas of law, primarily from women, but that our response is heavily weighted towards one off legal information – our lowest intensity service – rather than ongoing grants of aid – our highest intensity service. This is due to our continual need to tighten eligibility for family law grants of aid to contain cost.

Investing in legal assistance results in significant downstream savings for government. Every \$1.00 of Commonwealth funding allocated to legal aid commissions generates a return of \$2.25 in benefits, with the savings demonstrated most noticeably in legal assistance preventing family violence and stopping it from escalating.¹¹

Family law is a family violence jurisdiction – legal assistance is critical

Family violence is a defining feature of family law – it is not peripheral. Victims of family violence are 16 times more likely to have a family law issue than other community members. 86% of family law parenting matters in the Federal Circuit and Family Court of Australia (FCFCOA) now involve allegations of family violence.¹² This rises to 100% for our legally aided family law matters. This is unsurprising given relationship breakdown is a high-risk period for violence, and many families (and nearly all legally aided people) enter the family law system at a point of heightened conflict and instability. As a result, issues of safety sit at the core of family law matters.

Segmentation between the legal and wider social services systems, and within the legal frameworks governing family law, family violence, child support and child protection, makes navigating a path to long-term stability and safety extremely difficult, and leads to gaps that heighten risk and make systems abuse easier. Timely legal help is essential for victim-survivors to understand and act on complex information about their legal and financial rights across these disparate systems.

The disconnect between the state-based family violence intervention order (FVIO) system and the federal family law jurisdiction is exacerbated by the nature of legal assistance funding, which is segmented according to state and federally based systems rather than responding to a person's legal and safety needs.

Victim-survivors cannot access help to resolve family law issues safely

Funding for family law legal assistance is so severely restricted at VLA that the weekly assessable income threshold to be eligible for a grant of aid without having to pay a financial contribution is \$360 per week, compared to the national minimum wage of \$1,004.90 per week for full-time employees. The poverty line sits higher – at \$584 per week for a single adult¹³ - than the income threshold for legal aid. NLA has estimated that more than 1.5 million people living below the poverty line are ineligible for legal aid across Australia.¹⁴ This reflects the continuing reality that “[i]t is not the case that people are ‘too wealthy’ to be eligible for legal assistance, but rather that they are ‘not sufficiently

¹¹ PWC (n 6), p. iii.

¹² [Federal Circuit and Family Court of Australia Annual Reports 2024-25](#), p.4.

¹³ Davidson, P & Bradbury, B (2025) [Poverty in Australia 2025: Overview Australian Council of Social Service](#), ACOSS, p. 33.

¹⁴ Mundy, W (2024) [Independent Review of the National Legal Assistance Partnership 2020-25 Final Report](#), p. iii.

impoverished”¹⁵. A mother living below the poverty line who is experiencing family violence and has the care of children is often ‘not sufficiently impoverished’ to access legal aid.

The extremely limited circumstances in which victim-survivors can access legal aid for family law matters means a help seeker may receive assistance on a number of occasions for a FVIO in a duty lawyer setting but then be left on their own to navigate the complex family law system, able to access only once-off or limited help with family law proceedings or giving up entirely. See our client *Yuki’s story* below as illustrative of the impacts this can have for victim-survivors.

There is supposed to be ‘no wrong door’ for people seeking help for family violence – and yet years of under-funding means legal aid commissions often are the wrong door because we must turn people away. This leaves most victim-survivors unrepresented or having to self-fund very costly private lawyers. This is despite the fact the average cost of a parenting matter under a VLA grant of aid is just \$5362, a relatively modest sum that can prevent escalating future costs and secure safety for a victim-survivor and her children.

Family law is arguably a jurisdiction where being unrepresented poses an even greater risk than many others - it is more complicated, with lengthy and technical documents to be drafted, multiple court events and often lengthy trials and, of course, it is highly emotional.

At a minimum, victim-survivors of family violence living below the poverty line should have access to legal help for family law.

To raise the means test broadly to the poverty line, in 2014 the Productivity Commission recommended a \$200 million increase in civil and family law legal assistance funding. For the 2025-26 year, this figure is adjusted to \$459 million.¹⁶ The difference in the two figures reflects more qualifying people due to population growth, a wider range of matters, increasing costs of provision due to wage and general price inflation and to increased complexity.¹⁷ Legal aid commissions have experienced significantly increased costs associated with the FCFCOA case-management pathway, including additional interim hearings, and as a result of the expanded role of ICLs.¹⁸

Yuki’s Story

Yuki is the primary carer of her four-year old son, Bobby. She is on a bridging visa and ineligible for Centrelink support. To meet living costs, she works full time and earns \$1,400 a week. After paying rent and full-time childcare fees, she has just \$300 left for all other expenses including food, utilities, clothing and her car.

Her ex-husband Pedro is on a temporary student visa. He works cash in hand, earning around \$2,000 per week, but he does not declare this income and pays no child support. During their relationship, Pedro was verbally and physically abusive to Yuki. He was recently convicted of making threats to kill Yuki.

Shortly after his conviction, Pedro took Bobby and tried to leave Australia with him. Yuki could not afford private legal assistance and attended court in a panic. A Legal Aid duty lawyer

¹⁵ Productivity Commission (2014) *Access to Justice Arrangements Inquiry Report*, Volume 1, p. 30.

¹⁶ Mundy (n. 8), p. iii.

¹⁷ Ibid.

¹⁸ [Families missing out as Legal Aid Services end | National Legal Aid](#)

assisted her on the day to get an Airport Watchlist Order and a Recovery Order, preventing Pedro from taking Bobby overseas and ensuring his return to her care.

Although Bobby is back in Yuki's care, Pedro is seeking orders that Bobby live with him and that they be able to relocate overseas. Yuki has significant concerns about Bobby spending time with Pedro unsupervised, given the history of violence and threats. Despite the fact Yuki meets most of VLA's eligibility tests, she is ineligible for legal aid representation because her full-time income places her just above the means test threshold.

She cannot afford to pay a private lawyer, and reducing her work hours would leave her unable to support herself and Bobby. Because duty lawyers can only assist with on-the-day matters and the immediate crisis has been addressed, Yuki is now left to navigate the ongoing court proceedings alone. She is overwhelmed, unable to understand court documents or procedures and facing a better-resourced opponent who has used violence against her.

Legal assistance is essential to address systems abuse for family violence victim-survivors

The SAP should recognise systems abuse as a form of family violence that is weaponised across jurisdictions, including family violence orders, family law, child support, child protection, migration and social security. The Rapid Review reiterated previous evidence that family law is a key location of systems abuse.¹⁹

A well-recognised source of systems abuse includes the family law system, in which perpetrators attempt to drain the resources of victims and survivors through protracted and incessant legal proceedings ...²⁰

Lawyers are first responders when it comes to systems abuse as a form of family violence because they know the systems, the gaps that make manipulation of those systems possible, and what actions need to be taken in response. While it is pleasing to see recent initiatives focused on reducing systems abuse (including the Audit of Australian Government Systems and recent changes to strengthen the Child Support system against weaponisation), in our experience people who use violence are agile at finding ways to weaponise systems, and without legal assistance victim-survivors will remain vulnerable to systems abuse regardless of legislative and systemic safeguards.

Child support

The child support scheme is designed to ensure parents take financial responsibility for their children, reducing taxpayers' costs of support to single-parent families. However, our Child Support Legal Service is called upon to provide critical assistance daily to clients whose ex-partners hide or minimise their income and even withhold children to avoid paying child support. Navigating the extremely complex administrative child support system is very difficult. Without access to legal assistance, victim-survivors can be left financially vulnerable for years.

VLA is one of only two specialist Child Support Legal Services within legal aid commissions across Australia and it faces consistently high demand. In financial year 2025-26 we provided close to 2000

¹⁹ Reeves, E (2018) [Research Brief – Systems Abuse](#), Monash Gender and Family Violence.

²⁰ Campbell et al (n 2), p.100.

legal information services and assisted 320 clients through legal advice, a duty lawyer service or a grant of aid.

Investment in child support legal assistance has both direct and indirect benefits. For example, a parentage dispute funded under a grant of legal aid costs around \$3000. Legal assistance in these cases has significant cost benefits for the community given mums subsequently receive the financial support they are entitled to from their children's fathers until the children turn 18, as opposed to having to continue to draw on taxpayer dollars via Family Tax Benefit (A). Early intervention in child support disputes also improves quality of life for children and single mothers whilst preventing the risk of homelessness, entrenched poverty, mental health and financial insecurity.

Yet under-funding means most legal aid commissions have limited scope to fund child support matters under a grant of legal assistance.

Tehara's Story

When our client, Tehara, a single mother from a culturally and linguistically diverse background, and sole carer of her son aged 10, contacted us she was in financial crisis. Her ex-partner Chris was assessed to pay the Minimum Annual Rate of child support by Services Australia (Child Support) despite running his own business in the health industry, having several employees on his business payroll and being the registered owner of two properties.

Our Child Support Legal Service assisted Tehara in successfully applying for a Change of Assessment in Special Circumstances to increase her child support payments from \$500 per to \$22,000 per year. The new assessment considered: Chris's business financial statements and ATO income records; Chris being self-employed and hence able to legitimately claim deductions not available to the ordinary taxpayer such as depreciation; and the ATO Small Business Benchmarks of a health industry business.

Misidentification of the predominant aggressor

Misidentification is shaped by structural oppression and systemic bias. First Peoples women, women from culturally and linguistically diverse communities, people with disability or a mental health issue and LGBTQIA+ communities are at high risk of misidentification as the predominant aggressor of family violence, and potential criminalisation, by police.²¹ This is due to intersecting systemic barriers and societal stereotypes. This means victim-survivors who appear distressed or agitated, or do not appear as the 'perfect victim', are often disbelieved and blamed.²²

These experiences of misidentification create fear and mistrust of the systems and services that are there to protect and support women and discourage victim-survivors from help-seeking in future, compounding their vulnerability. Some family violence perpetrators (particularly non-First Peoples men in relationships with First Peoples women) know the victim-survivor's fear of involvement of police and child protection and threaten or use these systems as a form of coercive control.²³

²¹ Legislative Assembly Legal and Social Issues Committee (2025) [Inquiry into capturing data on people who use family violence in Victoria](#), p.76.

²² Safe and Equal (Undated) [Working with Misidentified Victim Survivors: A practice resource for family violence practitioners](#)

²³ Family Violence Reform Implementation Monitor (2021), [Accurate identification of the predominant aggressor](#), p. 12.

The consequences of misidentification can be life altering for victim-survivors including:

- further criminalisation through breach of FVIO
- loss of access to their children through child protection interventions or family law proceedings
- children being placed at further risk of harm if placed in the care of the person using violence
- loss of housing
- loss of employment
- change of access to government payments.

Legal assistance is fundamental to empowering women to challenge misidentification – not only in FVIO proceedings but when misidentification carries through the justice system and affects family law or other legal proceedings. As there is no agreed system-wide rectification process, this can be tiresome and challenging work, requiring lengthy advocacy for records to be changed in multiple places.²⁴

Victim-survivors should have access to legally assisted family dispute resolution

The Rapid Review recommended vulnerable families be supported to resolve family law matters outside of the Court's harmful adversarial processes, including through greater use of trauma-informed non-adversarial approaches like family dispute resolution (FDR).²⁵ The Metcalfe Review found that legal assistance during FDR is an early and effective intervention that provides a safer process and better outcomes for victim-survivors of family violence, helping them to safely avoid litigation.²⁶ It noted legal aid commissions' FDR services are an important option for a more intensive legally assisted process for families who need that support.

Legal assistance during FDR strengthens the capacity of victim-survivors to negotiate safe and financially secure outcomes for themselves and their children while reducing the risk of being taken advantage of or further harmed during FDR. Without the opportunity for legal assistance, many victim-survivors face an unsafe mediation process alone or end up having to file applications in the FCFCOA, caught up in a system that can fuel conflict and mirror the dynamics of abusive relationships²⁷, re-traumatising and exacerbating safety risks for victim-survivors.

VLA provides assessment for FDR through its Family Dispute Resolution Service (FDRS) when at least one party is eligible for legal aid. FDRS provides specialist family violence screening and risk assessment with case management support and trauma-informed mediators and child specialists. Lawyers represent parents and carers in mediation sessions, which significantly boosts capacity to mediate. With these safeguards, in most cases separated families impacted by family violence are supported to proceed with FDR. Of 915 completed mediation sessions in 2025-26, 79% of cases settled (partially or fully). Given the extremely restricted eligibility criteria for access to FDRS because of the means test, most victim-survivors of family violence currently miss out on the opportunity for legally assisted FDR.

²⁴ Ibid, p 33.

²⁵ Campbell et al (n 2), p 49.

²⁶ See summary in Metcalfe, A (2024) [Support for Separating Families - Review of the Family Relationships Services Program](#), pp. 140-141

²⁷ House of Representatives Standing Committee on Social Policy and Legal Affairs (2017) A better family law system to support and protect those affected by family violence at 3.82

Legally assisted FDR can proceed without representation for all parties, however, for family violence cases, where the mediation would not otherwise go ahead due to safety concerns, FDRS requires representation for all parties, not just the party with a grant of aid. Where a party is ineligible for aid and cannot afford a private lawyer, VLA's FDRS pays community legal centre lawyers to represent that party so that mediation sessions may proceed fairly and safely. These lawyers provide guidance and advice on family law, including children's best interests, to clients who may be used to relying on coercive behaviour, and misstatements of the law, to control decision-making. FDRS does not have the funding to support the representation of all parties who cannot pay a private lawyer, which creates additional barriers to access and delays for victim-survivors.

The Metcalfe Review noted the 2024 Independent Review of the National Legal Assistance Partnership (NLAP) finding that provision of "additional substantial funding" to legal assistance providers would enable increased delivery of alternative dispute resolution services, which will "better serve vulnerable clients, improve the client experience, reduce the burden on the court system, and reduce trauma to families and children".²⁸

Legal assistance is critical to improving responses to family violence for children and young people in their own right

Summary

Legal aid commissions are a key entry point to address children's safety needs and ensure they have a voice in decisions that affect their safety and their care, including through access to Independent Children's Lawyers and child-inclusive FDR. However, funding shortfalls mean many children and young people with an experience of family violence are not heard in family law decisions about their care and safety.

Recommendation 3

Under the SAP, the Commonwealth Government should provide dedicated funding at a level sufficient to ensure that ICLs can be appointed for all children and young people who should be represented according to the *Re K* guidelines.

Recommendation 4

The SAP should promote child-inclusive mediation as a safe and effective means of providing children and young people with a voice in decision-making about their care and safety. Increased investment in legal assistance funding (see recommendation 1) would enable legal aid commissions to offer child-inclusive mediation to more children and their families.

As noted in NLA's submission, family law decisions about where children live, who they spend time with and how orders are enforced can either promote safety and recovery or expose children to continuing harm. Legal aid commissions are a key entry point to address children's safety needs and ensure children have a voice in decisions that affect their safety and their care.

²⁸ Ibid.

The Metcalfe Review heard from stakeholders that ‘the entire family law system needs a greater focus on the rights of children, and giving them a voice, including through child-inclusive practice’.²⁹ Currently, funding shortfalls mean legal aid commissions cannot support many children and young people with an experience of family violence to have a voice in family law decisions about their care and safety.

Dedicated and increased funding for Independent Children’s Lawyers to meet demand

Children and young people are primarily heard in the most difficult family law cases through an Independent Children’s Lawyer (ICL) who, in representing their best interests, must give them the opportunity to express their views (except in limited circumstances) and ensure any views expressed are put before the court.³⁰ The ICL role is critical to outcomes in family law proceedings with recent evidence showing the Court’s findings usually align with the position taken by the ICL.³¹ ICLs provide significant efficiencies and other benefits to the Court, including collecting and testing evidence, maintaining a focus on the child, and ensuring the child’s views are before the court. This is particularly crucial when one or both parties are self-represented.

The case of *Re K* (1994) FLC 92-461 established guidelines for when the Court should consider appointing an ICL. Due to funding constraints, VLA can currently only fund ICL appointments where the matter meets just one of the *Re K* factors – cases involving allegations of abuse or neglect of a child.

While ICLs are critical to cases involving child abuse and neglect, no child in the circumstances described in *Re K* should miss out on an ICL. But severely restricted funding means many children do miss out, including in circumstances where:

- there are allegations of family violence
- serious mental health issues exist in relation to the child or one or both parents
- it is proposed to separate siblings
- none of the parties are legally represented
- there is a high level of conflict and dispute between the parents
- allegations are made about a child’s views and they’re mature enough to express their views
- one of the parties proposes to permanently remove the child to a location that would greatly restrict the other party from access to the child.

A significant and dedicated funding boost is required to ensure ICLs can be appointed in all circumstances recommended in *Re K*.

Demand, numbers of appointments and costs for ICLs are all increasing. ICL grants have become 35% more expensive over the last five years, with an average cost of \$10, 259 per ICL matter that VLA funded in 2024-25.³²

The extreme shortfall in legal assistance funding in family law means legal aid commissions must choose how to ration legal assistance between adult victim-survivors of family violence, people who use violence, and children and young people experiencing family violence. ICL appointments and

²⁹ Metcalfe (n 24) pp. 3, 62.

³⁰ The limited circumstances are where: the child is under 5 years of age; or does not want to meet with the ICL or express their views (as the case requires); or there are exceptional circumstances (section 68LA(5B) *Family Law Act 1975*).

³¹ Salter, M et al. (2025) [Improving legal, policy and practice responses to the intersection of domestic violence perpetration and child sexual abuse offending](#), University of New South Wales, p 25.

³² Internal VLA service data.

appearances have been restricted even further in some jurisdictions, which is a risk VLA also faces given increasing demand and costs.

A funding uplift is essential to ensure that we do not have to choose between providing legal services to an adult or representing a child's best interests in a family law matter involving family violence. The 2024 Independent Review of the NLAP recommended additional demand-driven Commonwealth funding for ICLs, including \$88 million in 2025–26, to address unmet need, supply pressures and the real cost of this work.³³

Child-inclusive mediation

While ICLs provide children a voice in complex court proceedings, their voices should also be heard in FDR³⁴. Child-inclusive practice in FDR can promote better decision-making in family law, building and supporting parents' capacity to hear children's voices, which has lasting benefits for families, and supports safer outcomes. Enabling children's participation in decision-making supports parenting arrangements that operate more effectively and are more sustainable,³⁵ which is important to safety and recovery from family violence.

VLA offers child-inclusive mediation through our Kids Talk program within FDRS. After an assessment for appropriateness, children meet with an independent child specialist who explores their experiences and shares agreed information in mediation. The child specialist provides feedback to each parent individually and prepares a therapeutically written Kids Talk report for use by the parents, lawyers, and the mediator.

In our experience, with specialist family violence risk assessment and the involvement of highly skilled and qualified child specialists, child-inclusive practice supports children and families in complex cases, when children really need to be heard. Our practice demonstrates that Kids Talk is safe and effective for some of the most marginalised children. Family violence was present in 65% of Kids Talk conferences in 2025-26.³⁶

The Metcalfe Review reported the most frequently suggested change to enable FDR activities to better meet families' needs was a greater use of child-inclusive practice.³⁷ Stakeholders saw a need for 'more child-centred and child inclusive practices in post-separation family services, including provision of safe and effective options for children and young people to participate in decisions relevant to their care'. It recommended additional investment from 2026-27 of \$17.4 million each year for dedicated Specialist Child Practitioner positions within FDR services.

Increased investment in family law legal assistance funding would mean that legal aid commissions could offer child-inclusive mediation to more children and their families, giving more children a say in how they can be kept safe. While VLA offers Kids Talk to any family where it is assessed as

³³ Mundy (n 8), p. v.

³⁴ In 2025-26 ICLs represented children and young people's interests in 294 mediation sessions at Victoria Legal Aid's FDRS.

³⁵ Metcalfe (n 24) p. 114, citing Carson et al. (2022) [Compliance with and enforcement of family law parenting orders](#), AIFS, Australia's National Research Organisation for Women's Safety.

³⁶ In 2025-26, one third of children accessing Kids Talk were neurodivergent and 19% of parents and carers also identified as neurodivergent. Nine percent of children were First Peoples, and 10% were culturally and linguistically diverse. Half of all parents and carers had mental health issues, 23% lived with a disability and 24% of families had been engaged with the child protection authority in the past.

³⁷ Metcalfe (n 24) p. 78.

appropriate, only a party with a grant of legal aid can participate in FDRS, which means most children miss out.

Recognise legal assistance as a vital part of the system that protects women and children from violence and supports their recovery

Summary

The legal assistance sector supports women and children to address legal needs across a range of areas essential to empowering their agency, and to prevention, earlier intervention, safety and recovery from violence.

Recommendation 5

The SAP and the intersecting National Plans, Frameworks and Strategies should include a dedicated national action recognising family and civil law legal assistance as an essential lever in preventing and responding to violence and abuse. The action should identify responsible governments, funding, milestones and public reporting on access, coverage and safety outcomes.

Legal assistance is a critical lever to prevent and respond to violence against women and children

The Rapid Review states that:

[A]ccess to public legal assistance can function as a protective ‘issues-spotting’ mechanism, whereby wider unmet legal needs—including those that have resulted from or developed in association with the experience of DFSV—can be identified and addressed. This is an area which evidence shows is in much greater need of recognition and which can function as a vital prevention mechanism.³⁸

The legal assistance sector supports women and children to address wider legal needs across a range of areas essential to empowering their agency, and to prevention, earlier intervention, safety and recovery from violence.

Legal assistance supports prevention and early intervention through helping people to address civil and criminal legal issues that can otherwise increase risk of family and other violence and are significant life stressors. VLA lawyers assist people who wouldn’t otherwise have access to a lawyer with their social security, migration, disability, mental health, discrimination, child protection, criminal, housing and employment-related legal needs. Clients are helped to retain employment, access supports through the NDIS, achieve financial stability, get into and stay in housing and maintain visa certainty. Service delivery across these intervention points means legal assistance is a powerful preventive, de-escalation and crisis-response lever with the potential to change the trajectory of a person’s life.

³⁸ Campbell et al (n 2) p 67, citing Centre for Innovative Justice (2020) *Strengthening Victoria’s Victim Support System, Victim Services Review*, RMIT University; Women’s Legal Services Australia (2023) Submission to the Independent Review of the National Legal Assistance Partnership, Women’s Legal Services Australia.

Legal assistance also supports safety and recovery given an experience of family or other violence often drives further legal needs, including in relation to family law, child support, employment (e.g. family violence leave entitlements), intervention orders, housing (e.g. eviction proceedings), migration, child protection and criminal law (e.g. misidentification).

Monica's story highlights the impact of civil legal issues for victim-survivors and the crucial role of legal assistance in supporting them to navigate complex systems, address significant debts and work toward recovery.

Monica's story

I am a single mother of six children. The father of my children is Thomas. Thomas has never been my partner. A partner is someone who supports you financially and emotionally. Thomas did not do those things. Thomas abused me. Since I have known Thomas, I have had a number of intervention orders against him protecting me and my children.

Since I had my first child in 2006, I have received Centrelink. I always told Centrelink I was single. In 2018, Centrelink looked at hospital records and intervention order applications that referred to Thomas as my partner or ex partner. In my language, the word for father of your children is the same word as husband or man of the house, so I did not think it was an issue if other people referred to Thomas as my partner, even though I never viewed him this way. Centrelink told me that I owed them \$300,000.

When Centrelink told me this, I was really struggling and I was very depressed. I did not have strength to fight them, and I did not know how. Centrelink made me pay them 30% of my income to pay off the debt.

In 2024 I decided to go to the Tribunal to fight Centrelink. Before the hearing, I was given thousands of pages of documents. I couldn't understand what they meant. At my first hearing, the Tribunal member asked me a lot of questions. It was very difficult for me to answer in English, and I find it difficult to express myself using an interpreter. I didn't feel like I got the chance to tell my story.

The Tribunal agreed with Centrelink. I reached out to Legal Aid for help. The lawyer told me that even though I was not successful at the Tribunal, I could ask for a second chance.

Centrelink and the Tribunal are big departments, I needed someone in the middle to speak for me, and my lawyer helped me do this. Eventually Centrelink told my lawyer that they changed their mind about me being in a relationship with Thomas. They decided that I didn't owe them any money and that I should be paid back what I had already paid.

The outcome was such a big relief for me. This had been a problem in my life for 7 years. The only thing that got me through it was my kids. Without Legal Aid I would not have been able to do this. Legal Aid is for people who have big problems but don't have enough words to explain themselves.

Now knowing that I don't have this debt, things are getting better for me. I feel like I have a new life, and I don't have to think every day about what Thomas did to me. I also feel proud for fighting for myself because I knew that Centrelink and the Tribunal were wrong.

Addressing the harm of gender-based violence

VLA also provides legal assistance to address the harms caused by gendered and gender-based violence through:

- Assisting victim-survivors of discrimination and sexual harassment in employment, education and other contexts, and seeking redress through compensation and systemic outcomes. While seeking to support the individual victim-survivor's recovery we also focus on achieving systemic changes in practices within workplaces or other contexts to prevent further harm.
- Assisting victim-survivors to respond to applications to seek their confidential communications in sexual offences matters, in a way that seeks to limit the ongoing impacts of the violence and assists them to navigate the criminal justice system with protection and support. This program is funded through a Commonwealth Pilot by the Attorney-General's Department, until 31 December 2027.³⁹
- Financial assistance work for victim-survivors of crime, through the cross-sector Victims Legal Service, which directly contributes to safety and recovery including through access to financial assistance, security and supports.⁴⁰

Support for people using violence

For people using violence, the Rapid Review found that 'opportunity exists in the initial stages of justice system contact which, if leveraged appropriately by police and legal practitioners, can improve understanding of court processes and reduce risk, including by addressing immediate support needs. This is a clear opportunity to reduce risk and prevent the likelihood of further escalation and violence'.⁴¹

Lawyers play an important role in supporting a person using violence and can reality test instructions, beliefs, and perspectives while avoiding any actions that could reinforce, support, excuse or minimise family violence. As an example, Family Advocacy and Support Services (FASS), based at FCFCOA, delivers duty lawyer services, family violence and mental health support at the court and encourages overall FVIO compliance. It provides a non-collusive intervention with people using violence and supports engagement with Men's Behaviour Change and other programs.

Embed legal assistance in the SAP and intersecting national action plans

The SAP should explicitly embed and measure access to, and improved safety outcomes from, legal assistance as a vital part of the service system that supports women and children to stay safe from, violence. This would align with the Rapid Review's finding that investment in legal assistance is a 'clear mechanism for preventing future—and often irreparable—harm' and must therefore be an area of urgent attention'.⁴²

³⁹ This pilot program is part of the government's response to the Australian Law Reform Commission's *Safe, Informed, Supported: Reforming Justice Responses to Sexual Violence* report (<https://ministers.ag.gov.au/media-centre/national-rollout-sexual-violence-legal-services-pilot-now-complete-15-05-2026>).

⁴⁰ In its first three years (2023 – 2026), the Victims Legal Service provided over 12,000 services to victim-survivors, but the service is still subject to fixed-term funding and unable to keep up with demand. See [Demand doubles for Victoria's dedicated legal service for victims of crime | Victoria Legal Aid](#) (three-year impact report of Victoria's Victims Legal Service).

⁴¹ Campbell et al (n 2) p 79, citing Campbell, E et al. (2021) 'More than just a piece of paper: Getting protection orders made in a safe and supported way: Responding to Recommendation 77 of the Royal Commission into Family Violence', Centre for Innovative Justice Research Report, RMIT University.

⁴² Campbell et al (n 2), p 67.

Recognition of and investment in legal assistance as a key protective intervention would also support the ambitions of the related national action plans currently being developed. For example, legal assistance is critical to:

- The focus in *Our Ways – Strong Ways – Our Voices: National Aboriginal and Torres Strait Islander Plan to End Family, Domestic and Sexual Violence 2026-2036 (Our Ways)* on:
 - supporting the critical role of specialist services, including the Family Violence Prevention and Legal Services
 - ensuring services respond to the needs of children impacted by violence
 - the no wrong door approach, which means legal supports must be integrated with other services.⁴³
- Supporting child safety and wellbeing under *Safe and Supported: The National Framework for Protecting Australia's Children 2021-2031*. The Outcomes Framework (under the First Action Plan) seeks to measure that children, young people and families have improved access to better quality and more equitable services and supports, including in 'family law systems' and 'justice services and supports'.⁴⁴
- Key priorities under the *National Strategy to Prevent and Respond to Child Sexual Abuse 2021-2030*, including supporting and empowering victim-survivors to understand their rights and navigate systems in a trauma-informed way, and offender prevention and intervention.

Invest in First Peoples-led responses to violence against women and children and coordinate initiatives across intersecting national action plans

Summary

Investment in community-driven responses and self-determination for First Peoples, First Peoples legal and support services and other ACCOs is critical to effectively respond to violence against women and children. First Peoples, and particularly First Peoples women, are disproportionately impacted by family violence. The SAP must align and communicate with *Our Ways*. Activities and measures must be connected through all the intersecting national action plans and co-designed with First Peoples.

Recommendation 6

Invest in First Peoples-led responses to address impacts, sector demand, and underlying causes of family violence, including:

- a. Community-based education and prevention initiatives informed by First Peoples' perspectives and understandings.

⁴³ [Our Ways – Strong Ways – Our Voices: National Aboriginal and Torres Strait Islander Plan to End Family, Domestic and Sexual Violence 2026-2036](#), pp. 49 and 73.

⁴⁴ [Safe and Supported: The National Framework for Protecting Australia's Children 2021-2031: First Action Plan 2023-2026](#), p. 21.

- b. Sustainable and ongoing funding for First Peoples legal services and support services and programs addressing long-term impacts of family violence and misidentification.
- c. Expansions of the availability and resources of existing support services and programs.
- d. Improved culturally appropriate education and training for police, courts, legal and non-legal service providers informed by First Peoples communities.

As a mainstream legal service VLA recognises that dedicated, self-determined initiatives for First Peoples belong in *Our Ways*. ACCOs have been calling for their own plan for over a decade and investment in community-driven responses and self-determination for First Peoples and First Peoples legal and support services is critical to effectively respond to violence against First Peoples women and children.

To have a ‘no wrong door’ approach the SAP must align and communicate with *Our Ways* and activities and measures must be connected through all intersecting national action plans and co-designed with First Peoples.

First Peoples, and in particular, First Peoples women are disproportionately impacted by family violence.⁴⁵ Previous inquiries have reported that while First Peoples are overrepresented in the child protection, criminal and civil law systems, they are significantly underrepresented in the family law system. This is due to additional barriers faced by First Peoples families accessing the family law system.⁴⁶ The demand for family law legal services from First Peoples communities is there; in its first year of operation VLA’s 1300MOB legal help phone service received 857 requests for assistance with family law, with 208 relating to child protection and 221 for family violence legal issues, demonstrating a need for this type of legal assistance.⁴⁷

A recent Inquiry by the Victorian Commission for Children and Young People (CCYP) highlights the benefits of self-determination and the power of services led by First Peoples. The Inquiry found that ACCOs were more successful at initial engagement with families in the child protection system and at maintaining a relationship. The Inquiry recognises that the ‘flexible, gradual, and assertive approach to engagement [by ACCOs], would be highly beneficial to Aboriginal and non-Aboriginal children, young people and their families’.

The Yoorrook Justice Commission noted the significant impacts of family violence for First Peoples as a critical health injustice, and as such community-based and therapeutic responses are required to adequately and appropriately address family violence.⁴⁸ As set out in the *Aboriginal and Torres Strait Islander Action Plan 2023-2025* (under the National Plan), First Peoples women want to see a ‘continuum of culturally-safe and responsive services, from interventions and wrap-around supports, before, during and beyond crisis’.⁴⁹ This includes both ACCOs and mainstream services like VLA.

⁴⁵ First Peoples women are 6 times more likely to be victims of homicide due to domestic violence than non-Indigenous women. They are also 33 times more likely to be hospitalised as a result of the domestic violence they face. Australian Institute of Health and Welfare (2022) [Family, domestic and sexual violence data in Australia](#), Australian Government.

⁴⁶ House of Representatives Standing Committee on Social Policy and Legal Affairs (2017) [A better family law system to support and protect those affected by family violence](#) p. 231.

⁴⁷ [1300 MOB VLA](#) is our legal helpline for First Peoples. We provide free, confidential and culturally safe legal help. This service is led and created by First Peoples. It was designed with the Victorian Aboriginal Legal Service and Djirra, with the support of Yamagigu Consulting.

⁴⁸ Yoorrook Justice Commission (2025) [Yoorrook for Transformation volume 4](#), p.151.

⁴⁹ Department of Social Services (2023) *Aboriginal and Torres Strait Islander Action Plan to End Violence against Women and Children*, Commonwealth of Australia, p. 38

Cultural capability uplift is required across the full spectrum of services that women, children and people who use violence encounter to support engagement with and effective service delivery for First Peoples.

Ensure the plan has measurable goals and it is easy to track progress towards these goals

Summary

Accountability through monitoring and evaluation is crucial to the people the SAP is designed to serve. First Peoples and other people with lived experience must be included in designing evaluation measures and monitoring and evaluating the impacts and outcomes of the SAP

Recommendation 7

The SAP should develop the measures relating to victim-survivors' experiences of the justice and legal systems and misidentification, drawing on legal assistance data.

Recommendation 8

The Government should include First Peoples and other people with lived experience of violence against women and children in the design of evaluation measures and in monitoring and evaluating the impacts and outcomes of the SAP.

Monitoring and evaluation of the activities committed to under the SAP is crucial to accountability to the people the SAP is designed to serve. First Peoples and other people with lived experience of family, domestic and sexual violence (including children and young people) must be included in designing evaluation measures and monitoring and evaluating the impacts and outcomes of the SAP.

Indigenous Data Sovereignty principles and clear accountability mechanisms including feedback loops must be embedded in these monitoring and evaluation practices.

The community must be able to see whether public investment is improving safety and access to justice yet current national measures leave important justice gaps. We support the careful use of legal assistance data to test National Plan measures on positive experiences with justice and legal systems, including misidentification.

The monitoring and evaluation framework must ensure that reporting and evaluation costs are additionally funded and absorbed from existing organisational funding.

About Victoria Legal Aid

Legal Aid commissions (LACs) are independent statutory bodies that deliver Legal Aid services. LACs are the main providers of legal assistance services in Australia and are responsible for nearly all the legal assistance representation services at courts and tribunals.⁵⁰

VLA's FYCL directorate plays a leading role in the provision and coordination of family law, family violence and child protection legal services across Victoria, representing people who have used family violence and people who have experienced family violence.

⁵⁰ PWC (n 6), p. ii.

We provide:

- Duty lawyer, legal advice, representation and information services including in family law (parenting and financial), child support, child protection and family violence matters across Victoria, to parents and to children
- Lawyer-assisted and child-inclusive family dispute resolution to help settle disputes with less need for court (through our FDRS)
- Independent Children's Lawyers who represent the best interests of children at risk
- FASS in family law registries and regional circuits – providing specialist duty lawyers alongside specialist family violence and mental health support workers; and
- Legal advice and education in the community.

VLA is a partner in the Victims Legal Service, Victoria's dedicated statewide legal service for victims of crime, delivered in partnership by the Victorian Aboriginal Legal Service, Djirra, Women's Legal Service Victoria and seven community legal centres. The model, designed together with victims of crime, includes a specialist helpline as well as more intensive legal assistance provided by partner legal services. The VLS helps victims of crime gain access to financial assistance to get their lives back on track and address pressing needs like their health and safety. As part of the Australian Government's sexual violence legal service pilot, the VLS also helps victim-survivors of sexual violence when applications are made to disclose their confidential medical or counselling records in court.⁵¹ In its first three years (2023 – 2026), Victoria's Victims Legal Service provided over 12,000 services to Victorian victim-survivors, but the service is still subject to fixed-term funding and unable to keep up with demand.

VLA provides specialist legal assistance for victim-survivors of sexual harassment and discrimination in employment, education and other contexts (including as part of the Respect@Work reforms), as well as other civil legal assistance to victim-survivors in relation to social security, NDIS, housing and migration. Last financial year VLA's Equality Law Program, provided over 1000 legal advice services, worked on around 150 litigation files and recovered over \$1.4 million in compensation for victim-survivors of discrimination, sexual harassment and/or violent crime.

⁵¹ <https://www.legalaid.vic.gov.au/victims-legal-service>. See [Demand doubles for Victoria's dedicated legal service for victims of crime | Victoria Legal Aid](#) (three-year impact report of Victoria's Victims Legal Service).