

Your submission

Please provide a brief summary of your experience and any relevant issues. Your submission should respond to one or more of the terms of reference. You may also wish to include any solutions, suggestions, or recommendations you have corresponding to the terms of reference.

Feminist Legal Clinic Inc. is a community legal service that works to advance human rights by providing free support to women and girls experiencing poverty and distress. The vast majority of our work relates to alleviating the suffering that arises as a result of male violence, abuse and discrimination. Our Principal Solicitor has worked for many years on domestic violence rosters at various local courts in the Sydney region and our service also co-ordinates the Women's Court Support Service at the Sydney Family Court. We are also the country contact for the international Declaration on Women's Sex-Based Rights.

Please note that content from this page onwards may be published.

- a. Immediate and long-term measures to prevent violence against women and their children, and improve gender equality.

The Office for Women should oversee Federal Government funding of autonomous women's services throughout Australia. This can be achieved by drawing upon the external affairs power of the Constitution to ensure consistent and reliable implementation of Australia's international human rights obligations to prevent violence against women and their children and to eliminate sex discrimination in all states and territories. This structure would enable the introduction and administration of relevant Federal legislation and the reliable funding of domestic violence services, including women's refuges, health, counselling, advocacy and law enforcement services across all Australian jurisdictions. Currently these services are woefully inadequate and underfunded and compromised by their relationship to funding bodies operated by male interests.

- b. Best practice and lessons learnt from international experience, ranging from prevention to early intervention and response, that could be considered in an Australian context.

International experience would suggest that Australia should develop specialist courts to deal with domestic violence, family law and child protection matters in a single jurisdiction, supported by women's police stations. To be effective domestic violence front line services must be delivered by women operating within a feminist framework and not beholden to funding bodies and other stakeholders which are ultimately committed to the protection of male privilege. In 2014 the NSW Government put women's refuges out to tender and many of the management contracts were taken from community based feminists and awarded instead to large religious agencies, with ideological commitments to male headship and constraints on women's sexual and reproductive autonomy. This has seen a discernible reduction in appropriate service to women and children fleeing male violence. Other essential women's services are being operated by boards of management dominated by men with corporate backgrounds and lacking insight into the role of male entitlement in perpetuating violence against women. Women's court advocacy services are also constrained by their need to maintain positive and non-critical relations with the police, courts and government agencies, which conflicts with their need to advocate strongly on behalf of women who are systemically being failed by these institutions.

- c. The level and impact of coordination, accountability for, and access to services and policy responses across the Commonwealth, state and territory governments, local governments, non government and community organisations, and business.

It is essential that services and policy responses across all levels of government should be coordinated and accountable to autonomous feminist management. While access to services and policy responses continue to be heavily influenced by powerful male interests we cannot hope to see a discernible improvement in the delivery of services to women and children fleeing male violence.

- d. The way that health, housing, access to services including legal services, and women's economic independence impact on the ability of women to escape domestic violence.

The current failure to provide the financial and legal support necessary to leave abusive relationships renders women and children vulnerable to domestic violence. Here are just a few examples:

- Despite recent decriminalisation of abortion in NSW, pregnancy terminations are still not available through the public health system and cost in the vicinity of \$500 making them inaccessible for many vulnerable women;
- Women's refuge accommodation is severely limited and in NSW women are required to call a homelessness phone line (Linked2Home) which is often answered by a male operator who administers generic questions applied to all homeless people. The accommodation offered is typically unsuitable as it is designed for homeless people generally rather than designed specifically to the needs of women and children fleeing domestic violence. Women who are ineligible for Centrelink payments due to their visa status are often unable to even access these services.
- Specialist women's legal services are underresourced and cannot even begin to meet the high demand for representation for women involved in family law litigation against their perpetrators. There is a major shortfall of Legal Aid in this area leaving many women unrepresented. The new Family Violence Cross-examination Scheme is a manifestly inadequate piecemeal reform which does not even extend to interim proceedings when a great deal of the damage is done. Comprehensive legal aid must be made available to women in this jurisdiction.
- Women who are victims of domestic violence typically still need to navigate at least two separate jurisdictions. Although police in NSW provide representation to many women in the Local Court seeking Apprehended Domestic Violence Orders (ADVOs), this relationship is fraught with difficulties. There is often a reluctance by police to bring cases where there is an absence of physical evidence of injury or independent witness accounts. Police often tell women they have no evidence as if their personal account of events is to be disregarded.
- There is an increasing tendency for police to seek ADVOs inappropriately on behalf of male perpetrators. There is a failure to pay due regard to the objects of the legislation and a disingenuous even-handed approach that does not take account of the significant physical and financial disparities and long term patterns of abuse.
- The failure of the welfare system to provide adequate financial support and housing for single mothers means that many women do not have the means to leave domestic violence and frequently opt to stay with abusive partners rather than expose their children to abject poverty.
- The Family Law Act impedes women's ability to escape domestic violence since the law will in most cases insist that she facilitates the father having continued contact with children, even in circumstances where she expresses ongoing fears for their safety and well being while in his care. Even with young children, there is no presumption that children should remain in the primary care of their mother, despite the reality that domestic violence and child sexual abuse is overwhelmingly perpetrated by fathers. In these circumstances, many women opt to stay with perpetrators of abuse rather than risk being compelled to leave her children in his unsupervised care.

- e. All forms of violence against women, including, but not limited to, coercive control and technology-facilitated abuse.

Legislation to prevent domestic violence must be drafted so that it is specific to the protection of women and their children. Mainstream criminal laws are already available to police for other violence. Current domestic violence legislation is increasingly being used against women by male perpetrators as a means of furthering their victimisation. The rate of women defendants is rising, with some mothers being separated from their children as a result of incarceration orchestrated by male perpetrators of violence. To adequately implement international human rights obligations pursuant to CEDAW and DEVAW, it is essential that domestic violence legislation is redrafted/amended to be specific to the protection of women from men and should also extend to coercive control, technology facilitated abuse and also misuse of legal process.

- f. The adequacy of the qualitative and quantitative evidence base around the prevalence of domestic and family violence and how to overcome limitations in the collection of nationally consistent and timely qualitative and quantitative data including, but not limited to, court, police, hospitalisation and housing.

It is essential that data on violent offending is collected and disaggregated according to biological sex rather than socially constructed notions of self-declared gender. There is an increasing tendency to attribute violent and sexual crimes committed by males to the female population. This is skewing the accuracy of crime statistics and is distorting media reporting and community perceptions of female offending. It is also essential that health care, domestic violence and accommodation services (such as women's refuges) provide service on the basis of biological sex and do not expect traumatised women to share crisis services with male bodied individuals, regardless of how they identify. Finally the government must prioritise providing a free searchable national data base of charges and convictions for violent crimes and domestic violence proceedings to ensure this information is fully disclosed and publicly accessible. Violent perpetrators should also not be able to evade detection by changing their name and/or sex and any such change should be clearly recorded on the said database.

- g. The efficacy of perpetrator intervention programs and support services for men to help them change their behaviour.

Programs must focus on men being held accountable for their behaviour. The above mentioned database is more likely to be effective for this purpose than existing behaviour change programs. Women and children must receive the financial, legal and emotional support to enable them to escape abusive males. This would result in men more rapidly being confronted with the consequences of their behaviour before it becomes habitual. Attitudes of male entitlement must be tackled early on by an overhaul of our school education curriculum to revise content which perpetuates notions of male superiority and the supremacy of violence.

- h. The experiences of all women, including Aboriginal and Torres Strait Islander women, rural women, culturally and linguistically diverse women, LGBTQI women, women with a disability, and women on temporary visas.

Policy and legislation should always be designed to assist those women who are most vulnerable in our community. If our legal system is accessible to those women, it will benefit everyone. Our legal system can be extremely cumbersome to navigate for most people let alone those with limited literacy or financial resources or little to no English. The welfare system is also so inaccessible as to be Kafkaesque. Even women with no English and no literacy are routinely directed to a computer terminal when they attend a Centrelink office. Women with temporary visas are also precluded from women's refuge accommodation due to their ineligibility for Centrelink benefits. We can provide case studies to further illustrate the difficulties confronting women if called upon.

- i. The impact of natural disasters and other significant events such as COVID-19, including health requirements such as staying at home, on the prevalence of domestic violence and provision of support services.

Natural disasters and events like Covid 19 exacerbate what is already an unacceptable situation where many vulnerable women are effectively oppressed and held captive by controlling and coercive men who exercise physical, financial and psychological power over them. Meanwhile Covid 19 has highlighted that a great deal of the essential work carried out within our society is shouldered by women and is largely unpaid or poorly paid. The temporary increase of sole parenting payments had a discernibly positive impact on many single mothers and their children (see 550 Reasons to Smile campaign by the National Council of Single Mothers and their Children). It is clear that mothers should receive sufficient financial support so that they can raise their children independently of abusive men, and without being subject to hardship and stigma. The government has also shown itself incapable of enforcing payment of child support by wayward fathers. In view of all these shortcomings, we would recommend instead instituting a Universal Basic Income, piloting it first with mothers.

- j. The views and experiences of frontline services, advocacy groups and others throughout this unprecedented time.

Women working in this sector do not all share the same views, and there is significant division in feminist thought about how best to liberate women from male oppression. However, there is a great deal of consensus on the need to urgently tackle domestic violence and the male entitlement which provides its foundation.