



Australian Government
Attorney-General's Department

The Family Law Violence Strategy

February 2006

The Family Law Violence Strategy

1. The Family Law Violence Strategy (the Strategy) forms part of the Australian Government's (the Government's) significant family law reform agenda. The Government is focused on the right of each child to grow up with love and support from both parents, but also to be kept safe from harm.
2. The Government considers that family violence of any sort is unacceptable and violence involving children is especially abhorrent. This Strategy focuses upon family violence and child abuse in the context of the family law system and on identifying ways to improve the functioning of the system for these cases. Proceedings involving allegations of family violence and child abuse frequently appear before courts exercising family law jurisdiction. These cases are widely acknowledged as some of the most difficult and contentious family law issues to deal with.
3. The Government wants a system where allegations of family violence and child abuse are handled quickly, fairly and properly.

Purpose of the Strategy

4. This Strategy signals the commitment of this Government to work to identify ways in which the family law process can be improved for parties involved in cases where family violence and child abuse issues are raised. The Government acknowledges that there are complex issues to be addressed in the family law process. For this reason, the Government is keen to work towards improving the system.
5. The Strategy has the following objectives:
 - (a) gain a better understanding of how family violence and child abuse issues arise in family law proceedings and how those issues are dealt with
 - (b) identify and highlight how the proposed legislative provisions in the Family Law Amendment (Shared Parental Responsibility) Bill 2005 (the Shared Parenting Bill) and the assistance that will be available through Family Relationship Centres and support services will help address family violence and child abuse issues in the family law system
 - (c) work collaboratively with the States and Territories to ensure that family violence and child abuse allegations are properly investigated once they arise in family law proceedings
 - (d) work with courts to improve processes for dealing with cases where allegations of family violence and child abuse are raised; and
 - (e) engage with relevant stakeholders to identify further areas of improvement to the family law process.

Context of the Strategy

6. Although the State and Territory Governments bear jurisdictional responsibility for investigations of family violence and child abuse, the Government is conscious of the need to consider, with a view to improvement, the manner in which family violence and child abuse issues are investigated and dealt with in the family law system. The Government considers that there is a role for the Commonwealth in ensuring that there is a consistent and thorough approach to dealing with family law disputes involving family violence and child abuse. There is also an important coordination role for the Commonwealth to strengthen inter-agency relationships between the relevant State and Territory agencies, including the courts. The current family law reform agenda provides an important opportunity to address such issues and this Strategy signifies the Government's commitment to a process of improvement.

Meeting the objectives of the Strategy

Objective 1:

To gain a better understanding of how family violence and child abuse issues arise in family law proceedings and how those issues are dealt with

7. It is important to understand how family violence and child abuse issues originate in the family law system and how those issues are dealt with by the courts and investigatory agencies.

Research on allegations of family violence and child abuse in family law proceedings

8. The Attorney-General wishes to ensure that any changes are grounded on reliable research on how family violence and child abuse are dealt with in the family law system. It is important to identify and better understand the relevant issues.
9. The Australian Institute of Family Studies (AIFS) will conduct a short term research project on how allegations are raised and addressed in the family law system. This research will also address the limitations of the current research into these important issues and assist in clarifying the competing claims that exist about allegations of violence through independent and focused research.
10. The research will examine material held by the courts in order to provide reliable information about:
 - the types of allegations and denials about family violence and child abuse that arise in family law proceedings and the way that allegations and denials arise
 - how allegations and refutations are dealt with in court proceedings and what type of conclusions are reached; and
 - the impact of allegations and proven cases on post separation parenting arrangements.

11. AIFS is a well respected independent research body that is highly qualified to conduct this research. AIFS also operates the National Child Protection Clearinghouse and the Australian Centre for the Study of Sexual Assault and is therefore familiar with researching these difficult family violence and child abuse issues.
12. As noted in the Government response to the House of Representatives Standing Committee on Legal and Constitutional Affairs (LACA Committee) report on the Exposure Draft of the Shared Parenting Bill, further longitudinal research will be commissioned into the issue of the impact of family violence and child abuse in family law matters in due course. The proposed longitudinal research will also investigate more generally the effectiveness of the Government's reforms across the family law system, including the raft of new services established to support the changes in the law. This initial research being done by AIFS will provide useful baseline data about these issues.
13. The Government is confident that these research projects will provide important information to identify any shortcomings of the family law system in relation to allegations and proven cases of family violence and child abuse. The research will allow the Government to properly focus on, and direct appropriate resources to, the areas where improvements to the system are required.

Referral of significant family violence and child abuse issues to the Family Law Council

14. The Attorney-General has requested that the Family Law Council consider issues relating to the effectiveness of existing protection mechanisms and opportunities for better coordination between Commonwealth and State and Territory agencies. Referral of the issues of family violence and child abuse to the Family Law Council will provide a better understanding of strategies or initiatives that might be developed in the future, in particular to improve coordination with State and Territory domestic violence, legal and policy systems.
15. Recommendation 13 of the LACA Committee was that a broad reference be given to an appropriate Parliamentary Committee to inquire into a range of issues around the effectiveness of existing protection mechanisms and the opportunities for better coordination between Commonwealth and State and Territory agencies on these difficult issues. The Government wishes to seek further advice on these issues before referring them to a Parliamentary Committee. In light of the emphasis on family violence and child abuse issues in the LACA Committee's report, the Attorney-General has referred these significant issues to the Family Law Council for consideration.

Objective 2:

To identify and highlight how the proposed legislative provisions in the Shared Parenting Bill and the assistance that will be available through Family Relationship Centres and support services will help address family violence and child abuse issues in the family law system

Clarifying the measures in the Shared Parenting Bill

16. The Shared Parenting Bill contains significant measures to improve how cases that involve allegations of family violence and child abuse are addressed in family law proceedings. The Government has responded to the recommendations of the LACA Committee to improve the prominence of provisions relating to safety and to address the potential for false allegations of violence or child abuse to be made.
17. The Shared Parenting Bill contains a number of provisions to ensure appropriate protection for those cases involving family violence and child abuse:
 - a new principle to make it clear that children need to be protected not only from direct harm but also where that harm comes from being exposed to family violence against others
 - compulsory participation in family dispute resolution as a prerequisite for an application for parenting orders will not apply if there is a risk of child abuse or family violence
 - the presumption of equal shared parental responsibility will not apply in cases involving violence or abuse. In those cases, the court will also not be obliged to consider the child spending substantial time with both parents
 - a new requirement for the court to promptly consider all cases that raise issues of family violence or child abuse. The court will be required to quickly consider the need to make orders to ensure that there will be adequate information before the court to resolve the issues before it and to ensure that appropriate protections, especially for children, are put in place rapidly
 - a new provision which provides that a court must order a party to pay the costs of the other party to the proceedings where the court is satisfied that that party has knowingly made a false allegation in the proceedings. If a party makes allegations of family violence or child abuse which investigations show to be knowingly false, that party should pay for the cost of proceedings
 - the court will also have a new power to require State and Territory agencies to provide information and reports that they may have about allegations of family violence or abuse

- the proposed less adversarial approach to children’s proceedings will provide a new case management approach that will better focus on children and will ensure that issues of violence and abuse are dealt with at an early stage in children’s proceedings; and
- the provisions relating to the relationship between family law orders and State and Territory family violence orders in Division 11 of the *Family Law Act 1975* will be simplified and improved, as recommended by the Family Law Council, to avoid inconsistencies.

Family Relationship Centres and support services

18. Changes to the law must be considered as part of the overall package of reforms announced in the 2005–06 Budget. Screening for violence and child abuse will be a very important role of the Family Relationship Centres (the Centres). The Centres will offer information and referral to all families in their areas and help those affected by family violence to access the services they need. The Centres will also provide individual and joint help to separated parents. Before conducting any joint session, the Centres will make an assessment of the family’s needs. If family violence or child abuse is identified, the Centres would provide advice on options and other relevant services.
19. The Operational Framework for the Centres makes it clear that the safety of all adults and children who visit or work at a Centre is paramount. Centres must have in place a safety and security plan which addresses safety risks across all relevant aspects of service delivery. Issues that the plan must address include premises, security systems, staff recruitment, development and training and management of critical incidents (including violence). The plan will also address screening, assessment and referral processes. The Government will ensure that best practice in screening and assessment will be developed. These practices will be included in initial and ongoing training for staff of the Centres.
20. As part of the family law reform package more than \$7 million over three years has been allocated to enhance family violence responses through Specialised Family Violence services under the Family Relationships Services Program. This is on top of the \$3.4 million that has already been allocated to Specialised Family Violence Services over that period.
21. The Specialised Family Violence services provide a whole of family intervention to families affected by family violence, using approaches that ensure the safety of family members. The objective of the services is to support the target group to achieve and sustain positive family relationships by providing access to enhanced interventions with the aim of:
 - minimising the incidence, severity and impact of family violence by increasing anger management skills; and
 - assisting clients to achieve and maintain positive family relationships.

22. Most Specialised Family Violence services offer a combination of men's support groups, women's support groups, children's support groups and individual and couple counselling.
23. Other support services for families after separation are also being expanded as part of the family law reforms. The Attorney-General previously announced \$17 million over four years for 30 new children's contact services, bringing the total number of services nationally to 65. It is recognised that handover arrangements to facilitate contact can also be flashpoints in cases involving conflict or violence. The expanded services will enable more children of separated parents to have contact with their non-resident parent and other family members in a neutral and safe environment.
24. The Attorney-General also announced 15 new services under the Contact Orders Program bringing the number of services around Australia to 20. This expansion of the program over the next three years will mean that, even where violence is involved, more separated parents in conflict over contact will have an alternative to taking their disputes to the court. The Contact Orders Program assists separating families with entrenched conflict over contact arrangements and often violence. In many cases they have already been through the court process to have contact arrangements determined. Many clients are ordered to attend the program by the courts. The program is very effective in reducing conflict and re-establishing contact between children. It involves a case worker intensively managing parents and getting them to understand the impact their conflict is having on their children.
25. Other services delivered through the Family Relationships Services Program, whilst they may not be specifically directed at addressing family violence, support and assist individuals and families to achieve healthy and positive family relationships.
26. Men and Family Relationships services deliver counselling, skills training, support education, and dispute services to men to help them improve and better manage their relationships with their partners, ex-partners, children and step-children. Men and Family Relationships services provide community development and community education activities to raise awareness of men and family relationships issues and to increase skills and participation in the family.
27. Family Relationship Counselling provides counselling that helps couples establish and maintain valued family relationships as well as counselling about the care, welfare and development of children of the relationship. However, individuals who present with violence or abuse as an issue will also be able to receive assistance from a practitioner under this service.

Objective 3:

To work collaboratively with the States and Territories to ensure that there are appropriate investigations of family violence and child abuse allegations that arise in family law proceedings

Collaboration with the States and Territories

28. It is apparent that many concerns relating to violence are a result of inadequate coordination between the work done in the Commonwealth family law system and the State and Territory child protection agencies and police forces that bear jurisdictional responsibility for the investigations of allegations of family violence and child abuse. A key part of this Strategy is to develop stronger inter-agency relationships between the Commonwealth and the States and Territories.
29. Recommendation 16 of the House of Representatives Standing Committee on Family and Community Affairs in the *Every picture tells a story* report was that an investigative arm of a new Families Tribunal be established with powers to investigate allegations of violence and child abuse in a timely and credible manner. The Government considers that it is more effective to improve coordination between the family law system and State and Territory child protection systems, rather than establishing an additional federal investigative body. A federal investigative body would cause duplication of jurisdictional disputes and further complexity and confusion for people needing to determine which system is appropriate for them.
30. The Attorney-General is currently progressing direct contact with relevant State and Territory Ministers, including the Attorneys-General, Police Ministers, Community Services Ministers and Women's Ministers, requesting their assistance to meet with him and to work collaboratively to improve the investigations of allegations of family violence and child abuse that arise in family law proceedings. This would include:
 - documenting a cooperative arrangement between the Commonwealth and States and Territories relating to family violence and child abuse
 - seeking a commitment from States and Territories to provide adequate resources to investigate allegations of family violence and child abuse in a timely manner
 - establishing standards governing how family violence and child abuse allegations are collected and how information is provided to the family law system. The protocols could include guidance on when the States and Territories will investigate an allegation, the information they collect and the information they would provide the court about their investigation. Such standards would improve how the State and Territory investigatory agencies assist the court in family law proceedings. Project Magellan, described later in this Strategy, is an example of the benefits of such standards.

Standing Committee of Attorneys-General (SCAG)

31. SCAG already has a working group that has been examining ways of better coordinating the Commonwealth's family law system with child protection systems at State and Territory levels. The working group is currently developing a paper on possible responses to recommendations 10–14 of the Family Law Council 2002 report, *Family Law and Child Protection*.
32. The recommendations of the Family Law Council fall into three categories:
 - increasing the legislative power of State and Territory Children's and Youth Courts hearing a matter to make orders relating to residence and contact in appropriate circumstances
 - avoiding duplication of proceedings by adopting a 'one court principle' which relates to the determination of the most appropriate forum for a matter to be heard; and
 - setting up a forum for ongoing evaluation and observation of this system of cooperation.
33. It is anticipated that the working group will present its final paper to SCAG at the first meeting of 2006 in April.
34. The Attorney-General will address his counterparts at the first SCAG meeting in 2006 to discuss the changes contained in Schedule 6 of the Shared Parenting Bill and, in particular, to discuss how the Commonwealth family law system interacts with the State and Territory domestic violence, criminal law and child protection systems. The aim of this discussion is to gain the cooperation of the States and Territories to work collaboratively for improvement to the family law system.

Australasian Police Ministers' Council (APMC)

35. Police Ministers have particular responsibility for investigations of family violence and child abuse. Concerns have been raised that where allegations about these things arise in family law proceedings, they are not appropriately investigated. The Commonwealth would like to work cooperatively with States and Territories to improve the investigation of allegations of family violence and child abuse that arise in family law proceedings.
36. The Government will seek the cooperation of State and Territory Police Ministers to improve the investigations of allegations of family violence and child abuse. In particular, the cooperation of the Ministers will be sought in relation to developing standards for dealing with family violence and child abuse allegations with a view to improving the information that is available in family law proceedings. The Government will also seek the commitment of Ministers to devote increased resources to investigating family violence and child abuse allegations promptly. This will allow the court to make appropriate orders in the best interests of the child and to address protection issues without undue delay.

Objective 4:

Work with courts to improve their processes for dealing with cases where allegations of family violence and child abuse are raised

37. The Government endorses the work of the Family Court of Australia (the Court) in developing a number of programs to better address family violence issues that arise within the Court system. In particular, the Court's development of a Family Violence Strategy (FVS) is an important step towards acknowledging and putting in place mechanisms to ensure the safety of people who have concerns about violence on the Court premises. The Government would like to draw attention to the FVS to ensure that participants in family law proceedings are aware that the Court is willing to work with people in relation to their safety concerns.
38. The Court has also established a range of other initiatives to deal with family violence issues. The Government considers that these initiatives have important benefits for proceedings involving family violence and child abuse. The Government is therefore discussing with the Court the possibility of extending the following initiatives:

Family violence screening pilot in the Brisbane Registry

The aim of this screening pilot is to identify the presence of a risk or danger to a client of the Court of any type of physical assault, verbal abuse, threat, harassment, intimidation or emotional trauma in the client attending any type of event on the Court premises. A family violence safety telephone number is available for those who have concerns about safety at Court. Screening information would then be used to develop, in consultation with the client, a plan as to how they may be able to participate in Court events effectively while ensuring their safety.

Management of violence allegations within the preparation of family reports

Family reports provide an important avenue to explore the allegations of both parents in the context of the overall dynamics of their relationship and separation issues. Guidelines for the preparation of Family Reports have been reviewed and a family violence framework adopted for use in the assessment and writing of reports. This will ensure better information on the issues is available to the Judge.

Piloting a child responsive model in the Melbourne registry

In 2005, the Attorney-General's Department provided \$239,000 of funding for the Melbourne registry to develop a child responsive model. This model involves a much greater emphasis on interviewing and involving children in the process and providing direct feedback to parents about the impact of their dispute on their children. The model provides children with the opportunity to talk about their experiences with violence and for the court mediator to assess the nature, level and intensity of any family violence. All contact with the mediator is reportable, which will ensure that the Court is better informed of the family dynamics based on the mediator's extensive contact with the parents and children. Particular attention has been paid to the development of assessment tools where there are concerns about family violence.

The Children's Cases Program (CCP)

CCP is a case management approach that enables issues of violence to be raised and dealt with at an earlier stage in the process, and provides for the greater involvement of a mediator who can provide the court with useful information on the impact of violence. CCP reduces the need for affidavits. Therefore, allegations of violence are not left on the court records for long periods of time without being addressed by a judge. CCP also ensures judicial consistency from the beginning to the end of a case. People affected by violence do not have to repeat or re-establish their circumstance at each event as the same judge is involved.

Project Magellan and the Columbus Project

39. The Government acknowledges the value of Project Magellan in the Family Court of Australia (the Court) and the Columbus Project in the Family Court of Western Australia. Project Magellan is a system of case management for matters where there are allegations of serious physical abuse or sexual abuse of a child before the Court. The Columbus Project includes cases where there are allegations not only of child abuse or child sexual abuse, but also of domestic violence or where levels of violence are such that there are concerns for the safety of children.
40. The Magellan approach has now been rolled out to all States and Territories and has been a very successful mechanism in a number of registries, particularly Victoria where it was first trialled, to better manage these very difficult cases. A crucial aspect of the success of Project Magellan and the Columbus Project is the strong inter-agency coordination, which ensures that problems are dealt with efficiently and that information sharing is of high quality.

Objective 5:

Engage with relevant stakeholders to identify further areas of improvement to the family law process

41. The Government will facilitate discussions with various stakeholders to ensure that ideas for improving the handling of cases involving family violence and child abuse in the family law system are properly considered.
42. Within the Commonwealth, the Attorney-General's Department will progress discussions between those Commonwealth agencies that have an interest in issues relating to family violence and child abuse. These discussions will ensure that there is a coordinated approach to how initiatives to improve family violence and child abuse in the family law system within the Commonwealth are undertaken.

Other key Government initiatives

43. As part of this Strategy, the Government would like to raise awareness of other key Government initiatives that help to protect and support people in family law proceedings who are experiencing family violence and child abuse. The Government considers that there are many existing projects and services that will provide an important referral point for the Family Relationship Centres and related service providers in the family law system. The Government will continue to engage with stakeholders about these programs and services and consider ways that improvements can be made.

The Women's Safety Agenda (the Agenda)

44. This Agenda is managed by the Australian Government Office for Women and includes a wide range of initiatives. \$75.7 million was provided in the 2005 Budget to assist in eliminating domestic violence and sexual assault in the Australian community. This program has particular relevance for people in the family law system experiencing family violence. An important element of the Agenda is to re-run the successful national *Violence Against Women: Australia Says No* campaign to increase community awareness of the issues of domestic violence and sexual assault. A 24 hour help line provides practical assistance to those experiencing violence, to friends and family who want to know what they can do to help and assistance to those wanting to change their violent behaviour. The Agenda also includes funding for research and pilot projects concerning domestic violence and child abuse in the Australian community. This program will assist in giving awareness to issues of domestic violence and in providing support for women and children involved in family law proceedings.
45. Funding for the Agenda also recognises the demand on Mensline's services that will be generated through the re-running of the *Violence Against Women: Australia Says No* campaign and will provide counsellors at Mensline with training and materials on domestic violence.
46. The Government also notes that the Australian Government's Partnerships Against Domestic Violence initiative and the resources and findings emerging through the current Agenda will be an important resource to draw upon in improving the family law system.

Indigenous Family Violence Programs

47. The Indigenous Family Violence Programs are managed by the Department of Families, Community Services and Indigenous Affairs. The Family Violence Partnership Program provides funding for projects and initiatives that aim to develop a sustainable reduction in, and prevention of, Indigenous family violence and child abuse through the enhancement of existing or establishment of new services/initiatives in partnership with states and territories throughout Australia. The 2004 Budget committed \$37.3 million over four years for coordinating, developing, implementing and managing bilateral agreements between the Australian Government and States and Territories.

48. The Family Violence Regional Activities Program (FVRAP) aims to prevent family violence, sexual assault and child abuse and strengthen child protection initiatives by undertaking relevant activities and initiatives, and support local communities to develop sustainable solutions. This program provides funding to address local priorities relating to family violence, sexual assault and child abuse/child protection. FVRAP has an allocation of approximately \$4.21 million in 2005–06.

Family Violence Prevention Legal Services (FVPLS)

49. Managed by the Attorney-General’s Department, FVPLS provide culturally appropriate assistance to Aboriginal and Torres Strait Islander adults and children who are victims of family violence, including sexual abuse. Providing legal assistance, case work and court support to victims of family violence is the primary function of the units.

Conclusion

Family violence and child abuse have traumatic personal consequences for families. The Government recognises the importance of improving the way the family law system handles these issues. Fulfilling the objectives of this Strategy will help to ensure that allegations of family violence and child abuse that arise in family law proceedings are dealt with quickly, fairly and properly. In particular, the research to be conducted by AIFS and consideration of issues by the Family Law Council should provide a strong basis for policy making as the family law reforms are implemented. Working collaboratively with the States and Territories, the courts and other relevant stakeholders will be equally important in ensuring the success of the Strategy.