

# Family Violence Death Review Committee preliminary thoughts on issues to be addressed in the Domestic Violence Act review

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## **1. Priority must be given to safety across all relevant legislation**

- All related statutes (eg COCA, CYPFA, Privacy Act, Vulnerable Children Act) need to be reviewed to ensure that safety is a priority principle across all. Currently there may be conflicting principles with respect to safety and risk issues/interpretations of children's best interests/abusive parents' perceived 'rights' to contact with their children.
- There needs to be a hierarchy of practice principles developed, applying across all relevant legislation. In this hierarchy safety concerns should trump privacy principles.
- There is also the need to consider how to respond effectively and promptly to allegations which raise safety concerns. While it is acknowledged that perpetrators have rights, victims should be taken seriously and safety should be paramount.
- There should be acknowledgment of the paramountcy of the child as the most vulnerable person in the group.

## **2. Family violence must be reframed so that it can be understood as a cumulative harm**

- The concept of cumulative harm should be incorporated within the DVA, COCA, and CYPFA. Current definitions or descriptions of abuse allow abuse to be responded to as an 'incident' or an individual event. This is problematic as it contributes to incident based thinking and incident based practice responses. Note that section 3(4)(b) in defining domestic violence provides that "a number of acts that form part of a pattern of behaviour may amount to abuse for that purpose, even though some or all of those acts, when viewed in isolation, may appear to be minor or trivial." This is not the same as requiring domestic violence to be presumptively responded to as though it is likely to be a harmful pattern of relating that has a cumulative and compounding impact on the victim.
- There are examples where an understanding of family violence in terms of the cumulative harm it causes<sup>1</sup> is contained within child protection legislation, but a similar approach needs to be taken to serial IPV perpetration or victimisation (the cumulative impact of repeat victimisation or chronic victimisation on adult victims).

*Children, Youth and Families Act 2005*<sup>2</sup> (Victoria legislation, Australia).

*"... must consider the effects of cumulative patterns of harm on a child's safety and development s.10(e)*

*Harm may be constituted by a single act, omission or circumstance or accumulate through a series of acts, omissions, or circumstances s.162(2)."*

## **3. Responsible information sharing should be mandated across services in cases where there are family violence and child protection concerns**

- The Privacy Act and the DV Act should be amended to include a presumption of information sharing between agencies where child protection and family violence concerns are present. Safe outcomes for children and adults affected by family violence can only occur when services responsibly share information and work together in a multi-agency and integrated way.
- Any amendment to the Privacy Act should make it clear that no offence is committed if the sharing of information arises from an honest belief.

## **4. Responding appropriately to known serial family violence perpetration**

- Information sharing concerns must address the need for criminal justice agencies to be able to link and respond appropriately to perpetrators who have multiple protection orders/multiple breaches/multiple

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<sup>1</sup> Cumulative harm may be caused by an accumulation of a single adverse circumstance or event, or by multiple different circumstances and events. The unremitting daily impact of these experiences on the child can be profound and exponential, and diminish a child's sense of safety, stability and wellbeing.

<sup>2</sup> This is supported with training and resources.

stopping violence programme attendances and multiple family violence criminal convictions against multiple victims.

- Serial perpetration needs to be responded to (including in bail applications, sentencing decisions, direction for programme provision, and risk management via multi-agency case management processes) as a cumulative pattern of harm against multiple victims, rather than in a siloed ‘incident’ and ‘individual’ victim manner.
- There may need to be provision cautioning against bailing arrested perpetrators to the home address. At least the judge needs to ensure that the perpetrator is bailed to a place that is separate from the victim(s)

### **5. General practice principles should be enacted**

Currently the DV Act only addresses protection orders, police safety orders and non-violence/protected people’s/children’s programmes. There are no principles which direct agencies’ practice across the whole family violence sector, such as:

- children exposed to family violence require support
- the safety of child and adult victims is paramount
- safety for child and adult victims is best achieved by managing the risk associated with the perpetrator
- perpetrator accountability, risk management, and behaviour change is most effective when it takes place within an integrated system response.

### **6. Accountability for workforce responsiveness should be placed on the CEOs of relevant agencies**

Family violence can only be addressed within a multi-agency framework. The core government agencies need to be organisationally responsive and required to work collaboratively and this needs to be modelled and mandated from the top. There is a need for accountabilities to be legislated for CEOs from Police, Health, MSD, MoJ, Corrections and Education etc.

### **7. Workforce standards should be mandated and developed**

Emphasis needs to be placed on the development of cross agency minimum safe workforce practice standards.

- Agencies should be required to have family violence policies in place.
- Agencies should be required to develop their staff’s practice skills to ensure they can fulfill their agency’s expectations of safe minimum practice.
- Agencies should be required to seek and share information responsibly when there are family violence and children protection concerns and work collaboratively with other services.
- Agencies should be required to undertake risk assessments (mandated as part of the family violence sector risk assessment framework) and take action with respect to the risks identified.
- It should be made clear that agencies are responsible for maximising the safety and wellbeing of victims (adults and children) and minimising perpetrators’ abilities to be abusive.

### **8. Amendments**

- To ensure consistency of practice and application, consideration should be given to enacting one “umbrella” statute to contain all the provisions relating to family violence currently spread across a number of related statutes.
- It is suggested that there be a standard definition of “family violence” to apply across all legislation. It would need to take into account the content of paragraph 2 above. This would ensure consistency across all Government departments and community organisations.
- The provisions concerning stopping violence programmes need to be amended to make providers responsible for seeking information from victims and other services as part of their assessment processes and ongoing work, and to ensure that they engage in multi-agency case management processes. Assessments should be based not only on the self-reporting of perpetrators but also on information obtained from victims; only by involving victims in the process will it be possible for there to be a proper risk assessment following completion of a programme. Stopping violence programmes should be standardised across the country, with appropriate allowances made for local conditions and ethnicities. There is also the need to require parallel advocacy service for victims. These services need to be delivered by specialist agencies. Currently, the MoJ safety advice work is being delivered by non-specialist services, such as Relationships Aotearoa.
- The law which allows a child who is a protected person on a protection order in which their parent is the respondent is left in the guardianship of that parent when their other parent has been killed by the respondent needs consideration.

- Amend section 51 of the DV Act, to make it clear that providers must share information with the FVDRC.
- Where there is a criminal conviction for a family violence offence (which may need to be defined), why should the victim then be required to seek a protection order? Such an order could be made automatically, subject only to the perpetrator's right to apply to the Court to set it aside. As the law currently stands, a victim can be required to appear in two Courts (District and Family) and give the same evidence twice.