



PRIORITY AREA:

MAKE THE JUSTICE SYSTEM SAFE, SUPPORTIVE AND RESPONSIVE TO THE NEEDS OF WOMEN ESCAPING VIOLENCE

A coalition of organisations is calling on the next Western Australian Government to commit to improving the systems that are meant to keep victims of domestic and family violence safe and hold perpetrators to account for their violence.

Inadequate systemic responses increase risk to women and children. It is imperative that in Western Australia we do not make assurances that the system will provide the safety net that women and children need and then fail to deliver because resources are spread so thin. Strong leadership and political will is instrumental to improving the system for victims of violence, holding perpetrators accountable and, in time, preventing violence from occurring.

We call on all political parties to demonstrate accountability and leadership in preventing violence against women and their children by putting domestic and family violence at the top of the agenda and committing to making the justice system safe, supportive and responsive to the needs of women escaping violence.

Key Asks:

- Implement the recommendations from the *Enhancing Laws Concerning Family and Domestic Violence Inquiry*, including non-legislative recommendations
- Ensure that any legislative reforms are backed with adequate resources and training to ensure they will be properly implemented
- Distribute an exposure draft of any bill proposing to enhance laws concerning family and domestic violence so that broad feedback can be sought
- Ensure the Judiciary, court staff and the legal profession receive regular and appropriate family and domestic violence training

Key Issues:

Currently the legal system is difficult to navigate at best and at worst is a source of further trauma and injustice to survivors of violence. From bad design logistics as it relates to waiting rooms at court (re keeping perpetrators of violence from opportunities to engage in further coercion against their victims while waiting to be heard at court), to inadequate policies/legislation or adequate policies/legislation that are not interpreted as they were intended, or not utilised to their full extent, there are many barriers to women accessing justice, including access to legal assistance.

There have been several Inquiries over the years into family and domestic violence and women's access to justice on both state and federal levels. Largely, however, the majority of the recommendations of these consultations do not get actioned in the timely manner necessary to create meaningful change. For example, in June 2014 the Law Reform Commission of WA released its final report from its inquiry into "Enhancing Laws Concerning Family and Domestic Violence". Nearly two years later, there has still been no formal response to the report from the Government.

The aim of the Inquiry was to:

- Consider separate family and domestic violence legislation;
- Consider the separation of family and domestic violence restraining orders from the *Restraining Orders Act 1997*; and
- Provide advice on the provisions which should be included in family and domestic violence legislation if it were to be developed.

The consultation found three prevalent themes: lack of awareness and understanding of domestic and family violence; information gaps; and duplication. It proposed 73 recommendations with the aims of the proposed reforms being to:

1. Enhance the safety of victims of family and domestic violence (and their children)
2. Reduce family and domestic violence by increasing perpetrator accountability and improve the management of offenders
3. Provide fair and just legal responses to family and domestic violence
4. Improve integration and coordination in relation to family and domestic violence in the legal system
5. Increase knowledge and understanding of family and domestic violence within the legal system
6. Maximise timely legal responses

One of the recommendations (accompanied by several others to be included) was to develop a new Family and Domestic Violence Protection Order Act specific to violence restraining orders needed in family and domestic violence-related circumstances and to have specific objects and guiding principles that recognised the nature of family and domestic violence (including the gendered nature).

No formal response to the Report, setting out whether the Government accepts the recommendations and how it will proceed, has been provided by the Government. The Department of the Attorney-General announced last year that it will be introducing a Bill to amend the already existing *Restraining Orders Act 1997*. It is unclear what recommendations will be incorporated, what other legislation if any will also be amended by the Bill if any, and whether the Government will also commit to the non-legislative recommendations.

There has also been no exposure draft of the Bill. An exposure draft is a draft of the Bill that is distributed broadly to stake-holders for feedback. This is particularly important where laws are being amended that affect vulnerable groups. It ensures that the people who work on the ground and will be utilising or affected by the legislation have an opportunity to provide feedback. This minimises unintended consequences and ensures that the Bill is adequate and robust.

Additionally, Western Australia already has quite good access (although improvement is necessary) to a broad range of provisions to protect victims. The problem however, is that the legislation is often not utilised to its full potential (professionals aren't aware of provisions available) or it is misinterpreted due to lack of training and understanding regarding the nature of violence against women and the intersection of the law.
