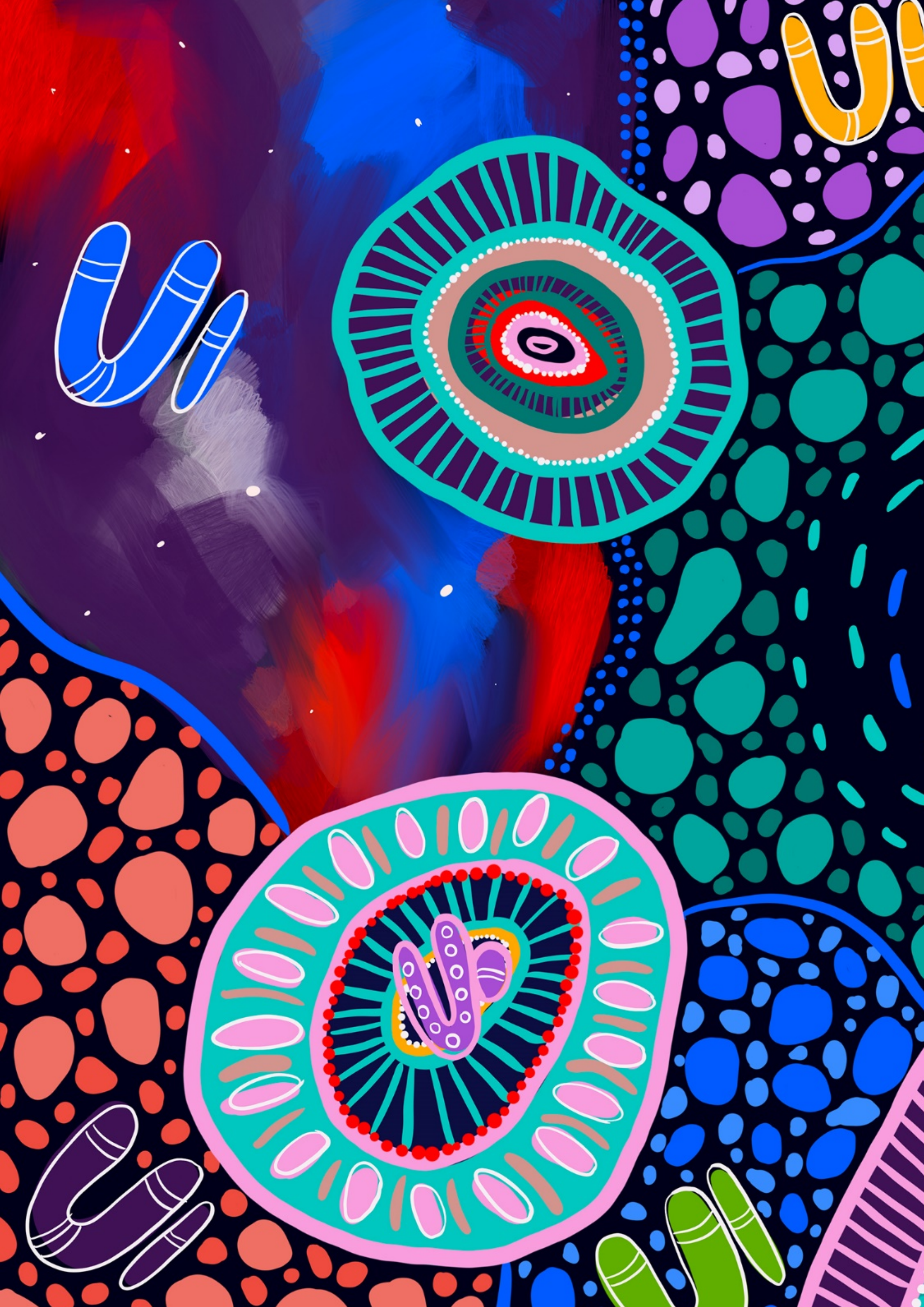
Hear her voice

Volume 3



This artwork as a whole represents **the journey we must go on as a community** to protect and better the lives of women and girls and make the world a fairer place for them.

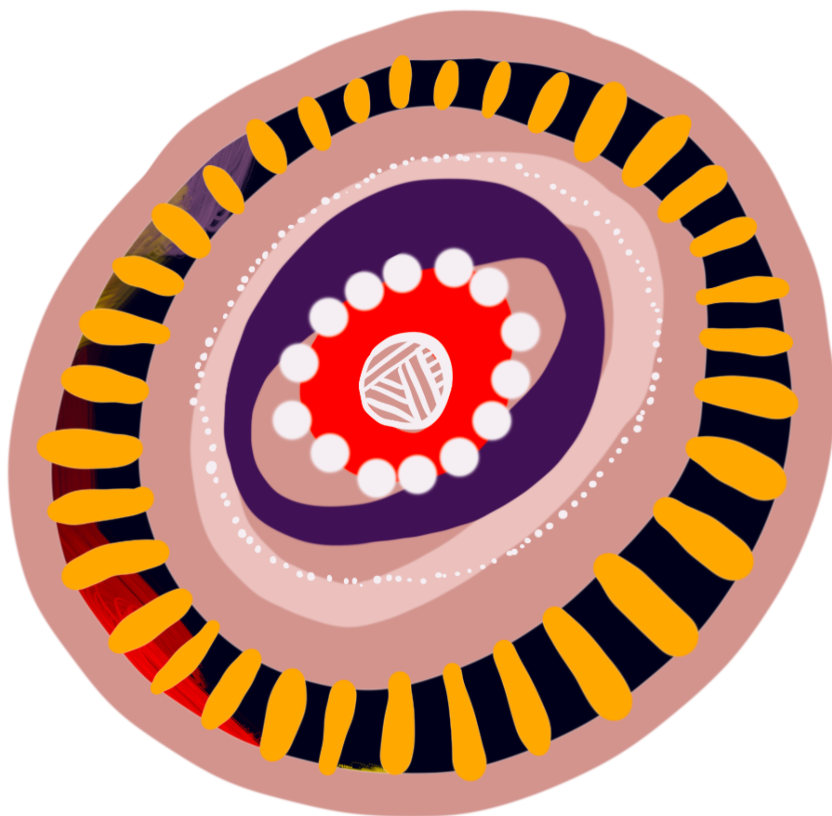
It represents the mountains we must climb, and the perseverance and determination it takes to make this a reality.

Part 3

In part 3, the Taskforce gives its detailed recommendations to support the journey we must go on as a community to prepare for coercive control legislation.

These recommendations prioritise prevention, education, perpetrator intervention and increasing the capacity of services provided by domestic and family violence workers, police, the legal profession and courts before the new legislation is introduced.

The Taskforce also outlines its recommended legislative reforms and amendments.



This symbol represents community and support

Chapter 3.1

Raising awareness and understanding in the community

Despite coercive control being reported on more frequently in Queensland media following recent tragic and high-profile deaths, a broader understanding and awareness of coercive and controlling behaviours is only just starting to gain traction.

> 'It would be expected that the Government would support the proposed change in law with an advertising campaign to help people understand and recognise coercive control, and to understand their rights and responsibilities. We would strongly support such a move, and we feel it would help to continue the positive shift in community attitudes.' [1]

Coercive control communication strategy

As the Taskforce discussed in chapter 1.1, many Queenslanders do not understand domestic and family violence or coercive control. Even victims have told the Taskforce that they were not aware that what they were experiencing was domestic and family violence:

> '[A] victim of domestic abuse and coercive control must first realise they are being abused. Most victims (myself included) are made to feel so small and question ourselves so we struggle to step up and speak up to begin with. Most of us will say "But he doesn't hit me" so we don't actually see our being controlled, threatened and demeaned as abuse. We also struggle with the fact that there are not physical injuries to be able to prove the abuse is occurring. We feel as though we won't be believed.' [2]

Stakeholders support the Taskforce's finding that significant community education is critical before introducing the new offence of coercive control.

The Queensland Government needs to develop a communication strategy to educate the community about coercive control and changes to the law.

Recommendation 5

The Queensland Government develop and adequately resource an overarching communication strategy to increase community awareness and understanding about the nature and impacts of domestic and family violence including coercive control and to clearly explain changes to the law. The strategy will aim to increase awareness and understanding about coercive control, provide information about how bystanders can help, support victims to access services and supports and encourage perpetrators to get help early to change their behaviour. It will also support the implementation of changes to the law including the introduction of new offences and potential consequences for perpetrators.

The strategy should incorporate:

- targeted community-specific awareness campaigns including First Nations people, people from culturally and linguistically diverse backgrounds, people with disability and LGBTIQA+ peoples
- exploring the use of multiple channels and modes to target messages effectively to specific groups
- developing a proactive public relations and media strategy
- creating accessible resources about domestic and family violence including coercive control and the new legislation, and should incorporate a standalone website with accessible information in plain English about the nature and impact of domestic and family violence and how to seek help

The strategy will be designed to complement the Queensland Government's current 10 year Domestic and Family Violence Communication and Engagement Strategy. The strategy will also complement messages provided to children and young people as part of respectful relationships education (recommendation 10).

Getting the message right

A key challenge for the communications strategy will be how to handle the complexity of the message, which arises from the complexity of coercive control itself.

Unlike physical acts of violence, an isolated act of coercive control may seem trivial and go unrecognised as a form of abuse by bystanders and even the victim. Currently, the community does not view non-physical forms of abuse as illegal.[3]

Another layer of complexity is this. Behaviours used to coercively control may also be used in toxic relationships that are not necessarily coercive. To explain, if a man verbally abuses his partner without it causing any fear (his partner may, indeed, give back as good as she gets), this may be a sign of a toxic relationship, but it is not coercive control. However, if a man abuses his wife routinely in a way designed to control and intimidate her, this is coercive control.

The messaging needs to explain clearly:

- the patterned nature of coercive control — that it constitutes behaviours that form a pattern over time in the context of the relationship as a whole
- the cumulative effect of coercive control and how it devastates victims
- what a respectful relationship looks like
- changes to the law
- the new facilitation offence, empowering people to say no to perpetrators who ask them to engage in conduct that might knowingly breach a Domestic Violence Order
- how to report coercive control and where victims and perpetrators can get support
- what family members and friends can do to help.

To avoid causing additional damage to victims, this messaging must take a trauma-informed approach.

Who are we talking to?

The communication strategy must not take a one-size-fits-all approach. The Taskforce has heard repeatedly that communication needs to be tailored to the needs of diverse sections of the community — both in content and mode of delivery. Women with intellectual disability told the Taskforce:

> 'We have to learn something three times and other people can pick it up straight away.' [4]

As well as the general community, the Taskforce has identified these primary audiences that should be considered separately by the communication strategy:

- young people
- First Nations people
- culturally and linguistically diverse (CALD) people
- people with disability
- LGBTIQA+ people
- mainstream services.

As well as more targeted campaigns for the audiences outlined above, the communication strategy needs to include a generic community-awareness campaign about coercive control, supported by messages about the new legislation. For example, the strategy needs to include a campaign for mainstream services to help them identify abuse, including how perpetrators use systems abuse as a method of coercive control. Mainstream services need education on responding to coercively controlling abuse, including referring victims and perpetrators to additional individually tailored support.

Another significant area is tertiary education. Many health professionals receive limited education about domestic and family violence. A campaign could be developed to target universities and TAFEs and set some expectations regarding curriculum content.

The strategy could also consider secondary audiences (such as faith-based communities, mining groups, sporting groups, and rural groups like the National Farmers Union) that may have less understanding of domestic violence, especially coercive control.

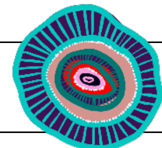
Tailoring the message

The Queensland Government recently ran a campaign on non-physical forms of domestic abuse. The creative for this campaign was purposely inclusive and gender-neutral to suit a general audience and with longevity in mind.

This approach is budget-friendly and suitable for a general awareness campaign. However, the Taskforce has repeatedly heard that the Queensland Government should consult with community leaders and stakeholders to tailor key messaging about coercive control for each audience.

For First Nations people, targeted campaigns should be developed *and* delivered by First Nations people. This supports Aboriginal and Torres Strait Islander people's rights, recognised in the *Human Rights Act 2019* (Qld).[5] Similarly, targeted campaigns should be developed in culturally and linguistically diverse communities as supported by section 27 of the Human Rights Act.

'First Nations people need to lead in their own community.' [6]



The Taskforce has heard that, in the context of culture, some communities may misinterpret messages.[7] We also heard that there is a risk that a coercive control offence may result in some genuine and legitimate caring practices being reduced because of a wrong perception that they are coercive and controlling.[8]

In particular, messaging should reflect some of the more nuanced types of coercive-controlling behaviour specific to victims from that audience demographic, as discussed in chapter 1.1.

An example of a coercive control campaign with differing key messages is the Scottish Women's Aid's campaign 'Hidden in Plain Sight'.[9] The campaign videos use real-life testimonials from an older woman and a woman from a culturally diverse background to demonstrate how the coercive-controlling behaviours used by perpetrators can be different according to the socio-economic background of the victim.

With the older woman, the narrative focuses on the slow build-up of behaviour over many years. For the woman from a culturally diverse background, the narrative includes a threat to cancel a visa and her bringing shame and dishonour on her family by leaving.

Both videos end by signposting to support services.

Media reporting of domestic and family violence

> 'It isn't just reporting on what coercive control is. That is important because it does help raise community understanding. It is also about reporting on what the impact is and why a woman might do something that she does … Journalism should be trying to change people's thinking, not just reporting fact.' [10]

As discussed in chapter 1.2, there is a need for further work with media stakeholders to ensure that media reporting reinforces community messaging and a maturing understanding of domestic and family violence.

The media industry must also ensure reporters:

- understand the seriousness and consequences of domestic and family violence, including coercive control
- are aware of and refer (as a matter of course) to key information sources, such as the Domestic and Family Violence Media Guide[11] and Our Watch's *Guidelines for reporting violence against women.*[12]

In terms of representation, the Taskforce has heard concerns from First Nations stakeholders that media coverage of domestic violence crimes committed against their women is minimal compared to the reporting of domestic violence crimes against middle-class white women.[13] Women from other diverse backgrounds appear similarly underrepresented in media reporting of domestic and family violence.

The Taskforce would like to see more media reporting on domestic violence against women from diverse backgrounds. Media can be instrumental in raising awareness of why women from diverse backgrounds are more likely to be victims of domestic violence and explain the nuances of the abuse such women may experience.

Recommendation 6

The Queensland Government review the Domestic and Family Violence Media Guide to ensure it:

- includes content specific to the nature and impacts of coercive control as a form of domestic and family violence
- includes content about the need to consider and reflect on the relationship as a whole
- refers to changes in the law
- provides guidance about reporting on the particular vulnerability and impacts for Aboriginal and Torres Strait Islander peoples, people from culturally and linguistically diverse backgrounds, people with disability and LGBTIQA+ people
- provides a framework for media organisations to incorporate a trauma-informed approach to media reporting and interviewing.

National media standards

In chapter 1.2, the Taskforce outlined stakeholder concerns that media reporting of domestic and family violence incidents may lead to copycat behaviour. In light of recent high-profile, horrific, and very public deaths of victims, there is a clear need for national media industry standards for reporting domestic and family violence.

Recommendation 7

The Queensland Government advocate nationally for consistent media standards that operate similarly to those for reporting on suicide.

The standards should include a trauma-informed approach that mitigates risks associated with reporting on and interviewing domestic and family violence victims and their families.

In her conversation with the Taskforce, journalist Jess Hill said she believes that criminalising coercive control will help journalists report more accurately on the context of domestic abuse, which will also raise community awareness.[14] She spoke of a case in Victoria's domestic and family violence court where a man was charged with breaking his partner's pot plants:

> 'You know there is no way she called the police just on the back of that. We have no idea about the rest of her experience. What coercive control legislation does is make her experience relevant.'

The Taskforce acknowledges that the incident-based nature of current responses to the matters that *do* make it to court restrict media reporting and that the confidentiality provisions in the *Domestic and Family Violence Protection Act 2012* (Qld) significantly limit what can and cannot be reported.

The Taskforce will consult on potential areas of law reform relevant to wider reporting of court hearings involving domestic and family violence and sexual violence when examining the second part of its terms of reference — women and girls' experiences across the criminal justice system.

Improving resources

As part of the communication strategy, the Queensland Government should update current domestic and family violence resources to include information about coercive control. It also needs to develop a new, standalone Domestic and Family Violence website that is easy to navigate and accessible for all users.

The Queensland Government has produced a series of in-language resources about domestic and family violence. However, these documents are word-heavy. The Taskforce has heard from stakeholders, including the Department of Disability Services, Seniors and Aboriginal and Torres Strait Islander Partnerships, disability advocates, and culturally and linguistically diverse women, that there is a need for accessible audio and visual resources.

The Taskforce also heard practical suggestions from Aboriginal and Torres Strait Islander stakeholders. For example, perpetrators may be more likely to understand Domestic Violence Orders if the order served on them were written in plain English and contained easy-read diagrams and pictures.[15] Respondents with low literacy or little English may find this would help them understand the requirements of the order and the implications if they fail to meet the conditions.

The Taskforce also heard that laminating the order could help victims by making it seem more permanent and more authoritative, with perpetrators less able to destroy it or dismiss it as 'just a piece of paper'.[16]

Recommendation 8

The Queensland Government, as part of the overarching communication strategy, work with First Nations people, people from culturally and linguistically diverse backgrounds, people with disability, and LGBTIQA+ people (including in local communities) to develop resources about coercive control and changes to the law.

These resources would include:

- in-language radio advertisements for community radio stations
- plain English and in-language videos that could be used for social media or television campaigns and posted online
- in-language podcasts or yarns
- pictorial documents that use illustrations or photographs to explain key concepts of coercive control and the justice process
- reviewing the format of domestic and family violence orders that are served on respondents to include plain-English wording and easy-read diagrams and pictures.

When created, these audio and visual resources should be clearly signposted from the home page of the Queensland Government's domestic and family violence support website and distributed through government online channels, service providers, and relevant community organisations.

Implementation

The strategy should cover three distinct stages to complement the four-phase implementation plan.

Stage 1

Naming the behaviour (recognise)

The Queensland Government has an opportunity to build on the rising public interest in, and knowledge about, coercive control, including through the work of this Taskforce. In stage 1, the communication strategy should build on this momentum. Activity in this stage should focus on 'naming the behaviour' of coercive control. As the Taskforce found, the nature of coercive control is complex and is not easily recognised even by victims. Starting in stage 1 will give sufficient time to ensure the general public recognises coercive control as a dangerous form of abuse that, as a community, we must stop.

Activity in this stage should focus on working collaboratively with community leaders and stakeholders to develop:

- awareness campaigns
- stakeholder and community resources about coercive control
- information about where victims and perpetrators can get help.

Stage 2

Naming the behaviour (reinforce) and explaining the new legislation (recognise)

By this stage, public awareness of coercive control as a dangerous form of abuse that must be stopped should be widespread. Activity in this stage needs to reinforce 'naming the behaviour' and introduce the new legislation.

Stage 2 needs to explain the new legislation clearly and how it relates to intimate-partner relationships.

Activity in this stage should focus on working collaboratively with community leaders and stakeholders to develop:

- awareness campaigns
- stakeholder and community resources about the new legislation
- information about where victims and perpetrators can get help.

Stage 3 and beyond

Naming the behaviour (reinforce) and explaining the new legislation (reinforce)

The communication strategy must continue beyond the legislation change. Reducing violence against women will require generational change, and, as submissions have consistently demonstrated, it can take many years for women themselves to understand they are victims of coercive control.

> '10 years ago, I didn't know what narcissist behaviour was but now I see it fits him like a glove. I know things will not change — they have been the same for 20 years.' [17]

The strategy needs to reinforce continually the messaging about coercive control behaviour and the legislation to be incorporated into the Queensland Government's ongoing domestic and family violence engagement and communication activity. It also needs to reinforce where victims and perpetrators can get help.

Conclusion

The Taskforce acknowledges that raising community awareness and developing resources can be expensive. However, this investment is justified in the context of primary prevention.

The Queensland Government should explore the use of more cost-effective digital channels when targeting specific stakeholder groups and develop a proactive public relations/media strategy as part of the community-awareness campaign.

Changes in attitude and behaviour can be hard to measure, and this communication strategy is only one aspect of primary prevention. Nonetheless, the government should engage a market research organisation to measure the success of its community-awareness campaigns and refine them as appropriate.

Also, as the community becomes more aware of coercive control, services are likely to experience an increase in demand. The service system needs the capacity to manage this additional demand.

This communication strategy will help victims from all socio-economic backgrounds to recognise the signs of coercive control and where to get support. It will also help perpetrators take stock of their behaviour, hopefully encouraging them to seek help to change their behaviour.

Raising awareness about coercive control and the new legislation, and improving how it is reported by the media, will also give bystanders the necessary support to take positive action.

Widely consulting with stakeholders about aspects of the communication strategy will help communities and the service sector prepare for the new legislation and the additional demands on their services.

Increased community understanding and awareness of coercive control will also help juries empanelled in criminal trials understand the evidence before them.

References

[1] Small Steps for Hannah submission, 3.

[2] Taskforce submission 684490.

[3] Bonnie Carlson and Alissa Worden. (2005). Attitudes and Beliefs About Domestic Violence: Results of a Public Opinion Survey: I. Definitions of Domestic Violence, Criminal Domestic Violence, and Prevalence. Journal of Interpersonal Violence, 20(10), 1197–1218.

[4] Attendee, meeting with WWILD clients, 20 July 2021.

[5] Fn Preamble 6 and s 28 HRA.

[6] Attendee, meeting with Mura Kosker, Thursday Island, 13 July 2021.

[7] Meeting with Lena Passi Women's Shelter, Thursday Island, 12 July 2021.

[8] Meeting with Chris Sarra 8 September 2021.

[9] https://womensaid.scot/project/hidden-in-plain-sight-domestic-abuse-and-coercive-control/

[10] Rosie O'Malley, Women's Health Queensland Media Community of Practice meeting, 26 July 2021

[11] Queensland Government *Domestic and family Violence media guide* https://www.publications.qld.gov.au/dataset/domestic-and-family-violence-prevention/resource/c9ed71ec-74e6-48b0-8894-e5de6d5cf290

[12] *How to report on violence against women and their children 2019 National Edition* https://media-cdn.ourwatch.org.au/wp-content/uploads/sites/2/2019/09/09000510/OW3989_NAT_REPORTING-GUIDELINES_WEB_FA.pdf

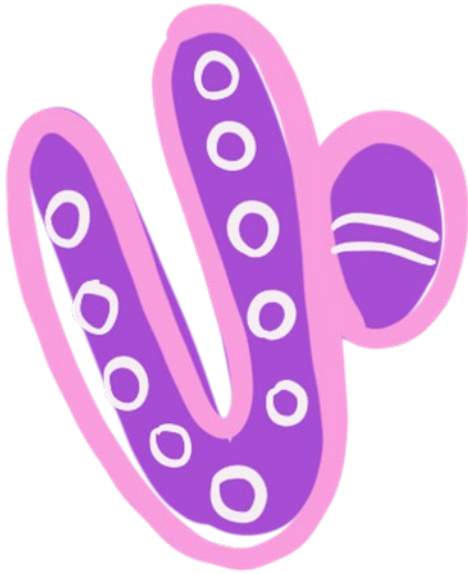
[13] Meeting with Aboriginal and Torres Strait Islander Prevention Group Meeting for Domestic and Family Violence, 3 November 2021.

[14] Meeting with Jess Hill, 13 September 2021.

[15] Meeting with project officers from the Department of Disability Services, Seniors and Aboriginal and Torres Strait Islander Partnerships, 3 September 2021.

[16] Meeting with Yumba Meta Housing Association, 6 October 2021; meeting with Palm Island Domestic Violence Network, 7 October 2021.

[17] Taskforce submission 689827.



Chapter 3.2

Improving primary prevention

While legislating against coercive control sends a clear message that this behaviour is not acceptable, the fact remains that the criminal justice system can only respond after the abuse has occurred. As a community, we must not accept that violence against women is an inevitable or intractable social problem. Further action is required to prevent coercive control from occurring in the first place. Primary prevention across all sectors of society focused on educating young people about healthy and respectful relationships and gender equality is at the heart of this crucial work.

> Women and children will continue to be subjected to violence and any new or amended legislation will simply act as a band aid if the gendered drivers of violence are not addressed.[1]

Primary prevention

The harm domestic and family violence causes to individuals, families, and communities is unacceptable. The demands on the justice and service systems are unrelenting and expensive. No matter how good the response to coercive control, a justice response will always be *after* the harm has occurred.

Global trends indicate that domestic and family violence has been increasing in contrast to the overall decrease in other forms of violence,[2] There is a critical need to expand and intensify efforts to reduce the impact of domestic and family violence — including coercive control — on future generations before it occurs. We must target this insidious form of violence that has gender inequality at its roots, and provide hope that these trends can be reversed by influencing social norms and providing appropriate support.[3]

The Taskforce's Terms of Reference (Appendix 1) invited us to consider 'the need for attitudinal and cultural change across Government, as well as at a community, institution and professional level, including media reporting of [domestic family and sexual violence]'. They also invited us to consider 'cultural reform relevant to the experience of girls and women as they engage with the criminal justice system.'

As outlined in chapter 1.2, there is a pressing need to address the drivers of gendered violence so that there is no need to engage the justice or domestic and family violence service systems. The Taskforce has heard that attitudinal and cultural change is a core element of the primary prevention work urgently required to reduce the prevalence of domestic and family violence and prevent harm from occurring in the first place.

This chapter sets out the Taskforce's recommendations to enhance and intensify efforts to prevent violence against women through a comprehensive and evidence-informed prevention plan and a focus on respectful relationships education for all young people.

A coordinated approach to primary prevention of domestic and family violence

Violence against women is not an inevitable or intractable social problem.[4] Prevention requires concerted effort over time to shift deep-seated beliefs and attitudes about gender and violence against women.[5] Public sentiment and behaviour can be changed. We have seen this happen with many public health initiatives such as immunisation, road safety, sun protection, and smoking. For coercive control, this change involves creating a context where attitudes and behaviours that support or condone it are challenged and discouraged through community pressure — preferably informally and at the earliest possible point of intervention. [6] The best way to stop smoking is never to start. So too with coercive control.

As noted in chapter 1.2, there have been commendable efforts to raise awareness of domestic and family violence and address its drivers. The Taskforce has found, however, that we need to extend and intensify these efforts. We urgently need a comprehensive approach that tackles the drivers across the 'spectrum of prevention' — at the individual, relationship, community, institutional, and societal levels.

Before introducing criminal sanctions for coercive control, we need to increase the level of community understanding about what constitutes coercive control, its unacceptability, and its potential impact.

Recommendation 9

The Queensland Government develop and implement a comprehensive and integrated plan for the primary prevention of violence against women in Queensland that extends and intensifies current efforts to address drivers across the 'spectrum of prevention' — at the individual, relationship, community, institutional, and societal levels.

This plan would:

- include awareness-raising activities that aim to provide all Queenslanders with an accurate understanding of the nature, prevalence, causes, and effects of domestic and family violence, including coercive control, and with the necessary skills to assist in early community-driven interventions (chapter 3.1), including the provision of respectful relationships education to all Queensland children and young people (chapter 3.2)
- feature activities at the community level developed and implemented by, or in partnership with, local communities and representative groups to ensure they are tailored to suit the needs of diverse Queenslanders
- include approaches and initiatives that work with men and boys, as well as women and girls, as partners in prevention at all levels
- draw on, and contribute to, the growing body of research and evidence about what forms of prevention are most effective, including through a concerted effort to evaluate primary prevention activities to determine what is and isn't working and where there is value for money.

Implementation

Chapter 1.2 outlined the drivers of violence against women, identified in *Change the story: A shared framework for the primary prevention of violence against women and their children in Australia*[7]. They include:

- condoning of violence against women
- men's control of decision-making and limiting women's independence
- rigid gender roles and identities
- male peer relations that emphasise aggression and disrespect towards women.

Actions that help prevent violence against women include:

- challenging the condoning of violence against women
- promoting women's independence and decision-making
- challenging gender stereotypes and roles
- strengthening positive, equal, and respectful relationships
- promoting and normalising gender equality in public and private life.[8]

An essential aim of primary prevention is to shift the ideas, values, or beliefs (cultural norms) that influence these drivers. These cultural norms are reflected in our institutional or community practices or behaviours and are supported by our social structures, both formal and informal.[9]

There is a need to increase the sophistication and integration of primary prevention activities for domestic and family violence across all sectors in Queensland. A comprehensive and integrated plan for the primary prevention of violence against women would enable the best allocation of resources and coordination of effort. It would allow particular aspects of gender relations to be best targeted to have the most impact.

As discussed in chapter 1.2, a 'socio-ecological' understanding of the drivers of violence against women recognises the interrelationship of structures, norms, and practices at the societal, system and institutional, organisational and community, and individual and relationship levels.[10] The Taskforce also noted that while gender equality is a factor in all violence against women, it may not be the only or most prominent factor for all victims and perpetrators.[11]

A comprehensive plan for primary prevention would focus Queensland's prevention efforts by articulating clear short, medium and long-term goals. It would encompass actions across the spectrum of intervention, informed by evidence to provide an appropriate mix across the individual, relationship, community, institutional, and societal levels.

The plan would build on past and continuing efforts in Queensland — both across government and in the Queensland community — to raise awareness of domestic and family violence and promote gender equality to address the underlying causes of violence against women (discussed in chapter 1.2).

Raising awareness

Awareness-raising efforts are indispensable. As noted in chapter 1.2, past work in this area may have contributed to increased knowledge about domestic and family violence, including non-physical violence, across the community.[12] However, we need to do more.

The Taskforce heard from many stakeholders about a lack of awareness of domestic and family violence in general (and of coercive control in particular). This is creating barriers for victims seeking help, preventing bystanders intervening, and limiting how the mainstream service system and the broader community responds to domestic and family violence. The Taskforce also found a lack of awareness among particular groups in the community, including young people (discussed further below) and people from culturally and linguistically diverse backgrounds. This finding confirms the continued need for targeted awareness-raising and prevention activities developed within communities and by community members.

As described in chapter 3.1, awareness-raising efforts are needed to support the implementation of legislation. This work will help community members take positive action as bystanders and support mainstream services to improve their responses to victims and perpetrators of coercive control. Increased community understanding and awareness of coercive control will also help juries empanelled in criminal trials understand the evidence before them.

As noted in chapter 1.2, the media plays an important role in raising awareness and promoting or reinforcing messages about the drivers of domestic and family violence. By contrast, problematic reporting can undermine important community messaging and perpetuate unhelpful and inaccurate stereotypes. For this reason, a comprehensive plan for primary prevention must incorporate media engagement. A comprehensive plan for primary prevention would incorporate recommendations made in chapter 3.1 about a communication strategy and improving the capability of the media to make a positive contribution.

Promoting gender equality

A crucial part of a plan for primary prevention of domestic and family violence is the promotion of gender equality. This can be achieved through policies and programs designed to increase female participation and leadership and enhance economic security. We can also contribute to reducing gender inequality at the societal level. Such measures help develop positive community attitudes towards equality. As discussed in chapter 1.2, current strategies for achieving gender equality in Queensland are set out primarily in the *Queensland Women's Strategy 2016–21*. (Its successor is currently under development.)

Such efforts, alone, may not be sufficient. Research indicates that, while focusing on attitudes and behaviours at the societal level are essential, it does not necessarily translate into attitudes supportive of equality in the private sphere.[13] The research suggests a need to focus policy and programming efforts on gender equality in intimate, family, and household relationships and target initiatives towards those aspects of gender relationships most strongly linked to violence against women.[14] This is consistent with the recent Our Watch findings regarding the progress of primary prevention efforts in Australia:

> The considerable changes in gender dynamics seen in the public realm have not been mirrored (or indeed facilitated) by shifts in the domestic or private realm towards less rigid gender roles and more equal divisions of unpaid labour between female and male partners (or ex-partners).[15]

A comprehensive plan for primary prevention should consider how to focus efforts on shifting attitudes in the private domain. These activities should raise awareness about healthy relationships (personal, sexual, and family), respect and tolerance, and coercive-controlling behaviours.

Development and implementation of the plan should draw on the considerable expertise of specialist sexual assault and domestic and family violence service providers, including those that work with perpetrators. There are also opportunities to engage with primary prevention expertise in other contexts, such as public health, to ensure a robust and evidence-informed approach to influencing behaviour change across different parts of the community.

Engaging men and boys in prevention

Further work is urgently needed to engage men and boys as partners with women and girls in primary prevention. While there have been efforts to shift community attitudes away from the prevention of domestic and family violence being a ‘women’s issue’, more can and needs to be done to harness the tremendous potential of men and boys in prevention.

Primary prevention programs need to target men and boys by challenging dominant norms of toxic masculinity that reinforce gender inequality and violence.[16] Reasons for this include:

- It is mainly boys and men who perpetrate this violence.
- Constructions of masculinity play a crucial role in shaping boys’ and men’s violence against women and girls.
- Boys and men have a positive role to play in helping to stop violence against women.[17]

Furthermore, adhering to toxic masculinity stereotypes is not only associated with gender-based violence but also with damage to the overall wellbeing of men and boys.[18] Reviews of current

strategies emphasise the need for a joint approach to target social norms and structures that intersect in private and public spheres of gender relations.[19]

Engaging with men and boys as allies in change is critical, yet many prevention programs reviewed globally do not include men and boys as advocates in their content.[20] Queensland could do more. A comprehensive plan for primary prevention should set out strategies that specifically target boys and men, as well as girls and women.

As outlined below, school-based interventions are promising approaches to achieve the necessary deep societal change needed to prevent gender-based violence.[21] A comprehensive plan for primary prevention would incorporate these activities. Other promising programs challenge gender views at touch points with service systems. For example, a Victorian primary-prevention program called 'Baby Makes 3' has been effective. It aims to prevent violence against women by promoting equal and respectful relationships during the transition to parenthood.[22]

Targeted and tailored approaches to prevention

A comprehensive plan for primary prevention needs to consider targeted and differentiated approaches to domestic and family violence in our diverse communities. It also needs to ensure that members of those communities are involved at all stages of the design, delivery, and implementation of initiatives.

Sustaining prevention efforts over time

Primary-prevention efforts involve a long-term vision and require ongoing investment and attention.[23] The ultimate goal — the prevention of domestic and family violence — can take significant time to realise. However, to relieve the pressures on the criminal justice and service systems — and prevent tremendous harm to individuals and society — we require an immediate and heightened focus on primary prevention.

Developing a comprehensive plan for primary prevention involves input and coordination across government and should be developed early in the reform process to guide efforts throughout the four phases of reform (chapter 2.3). Prevention strategies should be developed and implemented with and by the people they are targeting. This involves working with Queensland communities and the target of the strategies in to co-design initiatives.

The Taskforce acknowledges that there are costs associated with developing and implementing a primary prevention plan. The intention, therefore, is to build on and strengthen the outcomes achieved by what is already underway.

Prioritising investment in primary prevention when the demand for crisis intervention is high is difficult. However, taking a longer-term perspective to manage demand will result in better outcomes for victims and perpetrators. Government and community costs in the longer term will reduce if domestic and family violence reduces.

Primary prevention is also a responsibility of the Australian Government and a focus of the National Plan to Reduce Violence against Women and their Children 2010–2022. Given that domestic and family violence (including coercive control) is a national issue, the Queensland Government should build on and leverage efforts at the national level and advocate strongly for the Australian Government to do more.

> Domestic Violence costs the Australian people $21.7 billion every year. To see a long-term decrease in this investment we need to see a substantial commitment to funding coordinated, evidence-based primary prevention of violence initiatives. Investing in prevention creates substantial long-term savings for government and the community by stopping the violence from occurring in the first place.[24]

There are risks to implementing a comprehensive plan for primary prevention. One key risk relates to whether it can be sustained — that is, the difficulty of obtaining sufficient funding and commitment over the long term to sustain the required level of effort to realise the desired outcomes. As noted above, however, the short-term costs need to be weighed against the costs of failing to act. Change may not be linear, and shifting the deep-rooted individual and societal attitudes at the source of gender-based violence can be a slow process. Sustained commitment is required over the long term.

There are also risks associated with the potential rise in demand on the justice and domestic and family violence service system following increased community awareness of coercive control. The Taskforce has considered this risk in the development of the four-phase implementation plan.

Addressing the drivers of domestic and family violence involves challenging existing power structures and may result in a backlash from some parts of the community. This is a common and predictable part of the change process. Factoring this possible response into the planning phase may reduce risk and improve engagement with those community members.

The Taskforce may make further recommendations about preventing violence against women as part of its consideration of women across the criminal justice system.

Human rights considerations

Developing and implementing a comprehensive primary prevention plan would protect and promote rights under the Human Rights Act.

The right to security of person (section 29) concerns 'freedom from injury to the body and the mind, or bodily and mental integrity'. This right places an obligation on the state to take appropriate measures to prevent future physical and mental violence to individuals, including domestic and family violence carried out by private individuals.[25] In other words, the Queensland Government has an obligation not just to respond to domestic and family violence and coercive control but to take appropriate measures to prevent this violence from occurring in the future. By developing and implementing a primary prevention plan, the Queensland Government would take a significant step towards meeting these obligations.

By preventing future domestic and family violence and coercive control, primary-prevention activities will also help promote other human rights. For example, they will:

- (section 17) prevent future torture and cruel, inhuman or degrading treatment
- (section 26) protect families and children by reducing the likelihood that children will be exposed to abuse or separated from their families for safety.

All Queenslanders have the right to recognition and equality before the law (section 15). This encompasses the right to enjoy human rights without discrimination, including by having their rights protected equally, regardless of their location.

A primary prevention plan that provides for the equitable distribution of place-based prevention tools, resources, and programs across metropolitan, regional, and remote Queensland will promote this right.

Developing a primary prevention plan is not expected to limit any human rights under the Human Rights Act.

Evaluation

As outlined in Our Watch's *Counting on Change: A guide to prevention monitoring*, there is a need to consider long-term, medium-term and progress measures to track the impact of primary prevention activities.

While the overall goal of a comprehensive plan would be a reduced prevalence of domestic and family violence (with measures that capture coercive control included), there is a need to have medium-term indicators that measure shifts in attitudes and culture. This may include shifts in attitudes about gender equality (in the home as well as the public domain) and evidence of more respectful relationships. Measures of progress in terms of what is being done are also part of the monitoring and evaluation, provided there is flexibility to alter a particular course if the desired outcomes are not being achieved (this is discussed further in chapter 4.1).

As well as measuring the impact of prevention work on violence against women, it is also important to include measures about perpetration. This will contribute to putting 'perpetrators in the picture'.[26] As noted in chapter 3.4, gaining more data about how many people are perpetrating violence and abuse against whom and when, and how and why they are perpetrating it, is crucial to building up this part of the picture.[27]

It is important to note that, in the short- and medium-term, primary prevention activities may, in fact, increase the demand for support services. This is due to raised awareness and promotion of help-seeking, with an impact on prevalence only being realised after sustained effort[28] — this has resource implications for responding services.

The *Evaluation framework for the domestic and family violence prevention strategy 2016–2026* includes mechanisms to monitor and evaluate the progress of primary prevention and an accompanying Revised Indicator Matrix. These mechanisms could be developed further to better measure progress towards defined outcomes (discussed further in chapter 4.1).

The monitoring and evaluation plan should include progress measures for particular target cohorts in the population. As discussed in chapter 4.1, an intersectional approach to data collection addresses, and tries to correct, the invisibility of the experiences of diverse Australians in the research and data.[29] It also seeks to understand how structural inequality, discrimination, and oppression interact.[30] While intersectional methodologies are an emerging area of work, evaluation of primary-prevention activities should consider adopting an intersectional approach, such as the one outlined in Our Watch's *Counting on Change.*

The results of the 2021 National Community Attitudes towards Violence against Women Survey, due in 2022, could contribute to baseline measures for the plan. The Queensland Social Survey already captures some relevant information and could be modified and enhanced to provide further measures.

Respectful relationships

The need for education to prevent coercive control

Chapter 1.2 noted that respectful relationships education is one of the most promising strategies to prevent gender-based violence,[31] and schools provide key settings in which to promote respectful relationships, non-violence, and gender equality.[32]

> In conjunction with a comprehensive program of activity across other settings, evidence-based and adequately funded respectful relationships education throughout the national school system could create the generational change needed to see an Australia free from gender-based violence.[33]

Chapter 1.2 highlighted that the Taskforce has heard overwhelming support for a continued and expanded focus on respectful relationships education for all children and young people. The Taskforce heard, however, that despite a range of positive initiatives in this area, program implementation has been inconsistent across Queensland schools, with no way of monitoring or overseeing quality. Decision-making and resources for such initiatives are often decentralised, resulting in a fragmented approach across the state.

Young people and youth workers told the Taskforce about the dire need for children and young people to better understand coercive control so that they can recognise it in their own relationships.[34] The Taskforce heard disappointment and frustration about the lack of attention and time given to these important issues in the current programs being delivered in schools.[35]

All children and young people in Queensland, regardless of the school they attend, should receive high-quality respectful relationships education. Ideally, respectful relationships educations should be delivered in the context of a whole-of-school approach that would:

- encompass in-class education
- be embedded in a school's culture, policies, and procedures
- promote gender equality among school staff, as well as the school children.[36]

The Taskforce notes the current review of respectful relationships education in Queensland schools in chapter 1.2. This is a positive and promising step towards strengthening the delivery and outcomes of these important programs. However, the Taskforce would like to see greater attention given to the consistency of this education across all Queensland schools.

Recommendation 10
The Queensland Government mandate that all state and non-state schools in Queensland, including independent schools, special schools, schools in youth detention centres, and flexi-schools provide consistent, high-quality respectful relationships education, delivered and embedded through a whole-of-school approach. Respectful relationships education at every school must feature minimum core elements that address the causes of domestic, family and sexual violence and coercive control. This includes age-appropriate content on respectful relationships, the impact of colonisation on First Nations peoples, cultural respect and diversity, gender equality, sexual relationships, pornography and consent, and ways to seek help. Respectful relationships education, whilst containing the minimum core elements, must also be delivered in a culturally safe way that is relevant to students' home lives and community.

Consistent and high-quality education about coercive control

Domestic and family violence is not acceptable in our communities and must not be tolerated. More must be done to 'stop it at the start'. Ensuring that children leave school with the knowledge and skills to recognise, prevent, and call out abuse should be prioritised.

As outlined in chapter 1.2, even if a child in Queensland receives respectful relationships education, the quality of that education and what elements it contains currently depends on the school they attend. This amount of discretion at the school level is resulting in inconsistent access, and education of variable quality. Such inconsistency ultimately diminishes the preventative outcomes delivered.

The Taskforce acknowledges that some schools will face challenges establishing high-quality respectful relationships education. While some parents or communities may favour concepts about relationships being taught in the home, the sad reality is that for many children, their home is the place where abusive behaviours are modelled, witnessed, or experienced.[37] The experiences of children exposed to domestic and family violence was discussed in chapter 1.1.

To improve consistency and quality across Queensland, and to address the causes of domestic and family violence and sexual violence, core elements in respectful relationships education must be mandated for both state and non-state schools. Providing consistent, evidence-informed programs builds on the government's progress and investment in respectful relationships education, making the most of this critical opportunity to reduce the prevalence of domestic and family violence for future generations.

For Queensland to experience a generational shift in attitudes to domestic and family violence and coercive control, all children across the state must receive age-appropriate education on the drivers of domestic, family and sexual violence. In addition, and based on what the Taskforce has heard, respectful relationships education must include age-appropriate content across these core elements:

- **Gender and power:** a critical analysis of gender inequality and power with an understanding of the underlying gendered drivers of violence against women
- **Domestic and family violence**: the different forms of domestic and family violence, both physical and non-physical
- **Coercive control:** pattern-based nature of coercive control and the power dynamics of coercively-controlling relationships
- **Respectful relationships:** what makes for healthy and respectful family, social, and intimate relationships and what does not
- **Gender equality:** sex discrimination, sexual harassment, unconscious bias — and promoting gender equality as a pivotal factor in reducing violence against women[38]
- **Human rights:** helping students understand and respect the human rights that they and their peers enjoy under the *Human Rights Act 2019*, including those rights relevant to domestic and family violence
- **Cultural respect and diversity:** an understanding of and respect for different cultures, as well as an understanding of what racism is and of the ongoing impacts of colonisation for Aboriginal and Torres Strait Islander peoples[39]
- **Gender and sexual diversity:** a discussion of gender norms, the difference between sex and gender, and discrimination experienced by LGBTIQA+ individuals
- **Seeking help:** information about who to tell or contact when there is domestic, family or sexual violence or coercive control occurring at home or in their relationships.

Respectful relationships education should also include age-appropriate content on sexual relationships, sexual violence, consent, rape myths, and pornography. As noted in chapter 1.2, the widespread availability of pornography, even for very young children, and its impact was raised with the Taskforce as an issue that should also be addressed through education. The Taskforce will further consider this and other matters relating to sex education in its second stage of work.

Some flexibility should be provided to allow individual schools to tailor the mandatory core elements. This approach (discussed further below) will allow the program to be taught in a way that incorporates and reflects the cultural diversity of the local school community.

The benefits of a whole-of-school approach

The effectiveness and sustainability of gender-based violence-prevention programs depend on the involvement of everyone who plays an important role in the lives of children and young people.[40]

> Classroom learning will only change attitudes and behaviour when reinforced and when the core concepts of respect, equality, gender, power and consent are modelled across the whole school community.[41]

Discussed in chapter 1.2, a whole-of-school approach to respectful relationships education involves establishing a shared vision among the entire school community. This includes staff:

- modelling appropriate behaviour
- incorporating messages throughout the curriculum
- facilitating alliances between students to provide peer support
- examining school policies and practices for consistency with the overarching aims.[42]

The evaluation of trials and other research indicates that a whole-of-school approach to respectful relationships education is likely to have the most impact.

Research emphasises the critical importance of school leadership reinforcing and supporting teachers and others to reflect on their own views about gender and violence and, in turn, support students to reflect critically on their own beliefs.[43]

Professional development to support high-quality respectful relationships education

The Taskforce noted in chapter 1.2 that the knowledge and capability of educators delivering respectful relationships education is key to the success of the program. Educators must have the professional knowledge and skills to deliver these programs, and schools must be supported to implement a whole-of-school approach.

Leading young people through respectful relationships education is important, sensitive, and sometimes challenging work. As evaluations and outcomes of pilots have so far indicated, the ability of educators to understand and convey the content skilfully and deal with resistance or disclosures that may arise requires a good level of knowledge and skill. Queensland's teachers need support, access to high-quality professional development, and adequate time to understand how they can integrate respectful relationships resources into their teaching.[44]

Equally, implementing a whole-of-school approach needs school leaders and staff to understand and model relationships of respect. Attention needs to be paid to the culture of school environments and the policies and practices that inform that culture. It requires engagement with the broader school community, including constructive engagement with resistance to this approach. These processes can be challenging but ultimately rewarding for school leadership and the broader school community.

Recommendation 11
To support the effective state-wide rollout of respectful relationships education, the Queensland Government and private providers ensure educators from early childhood education through to year 12 receive ongoing professional development that allows them to deliver respectful relationships education as part of a whole-of-school approach. Appropriate governance and accountability mechanisms will be put in place to regularly provide public transparency to the community about what schools have done to implement respectful relationships education and how a whole-of-school approach has been adopted.

The Taskforce recommends ongoing professional development training for all educators, from early childhood through to Year 12. This will equip them with the knowledge and skills to do this work.

An Our Watch review of the relevant literature suggests that professional development should:

- provide an opportunity for school staff to reflect on their own beliefs and attitudes (norms) about gender and the influence of these on their teaching practice
- prompt exploration of how teaching practice and materials reinforce gender norms and respectful relationships
- help teachers integrate ideas about gender equality into the curriculum across all key learning areas
- guide staff in identifying and addressing violence based on social, cultural, and gender norms among students
- guide staff in how to receive and address students' disclosures of violence sensitively and appropriately.[45]

Specialist support for school leaders would also support the initiation and implementation of a whole-of-school approach, consistent with the critical role they play in this work. Ideally, professional development programs should be bolstered by ongoing support, including at a regional or district level — for example, through 'communities of practice' and dedicated personnel within the Queensland Department of Education.

The Taskforce and the Department of Education have discussed the potential for regional office positions to support schools in each district to deliver respectful relationships education. The department has noted that similar approaches have worked well for other protective programs for school children, including during the COVID-19 pandemic. The Taskforce supports this proposal for regional officers, noting that the availability of experts has proven beneficial in implementation. For example, an evaluation of Victorian secondary schools found that 'key components of the whole-of-school approach might not have been addressed without the available support of primary prevention and gender equality experts working from education department offices'.[46]

Adaptability and cultural safety

Consistent and effective respectful relationships education needs to be delivered in a culturally safe way that is relevant to the home lives and communities of students and parents. Schools may consider engaging external support from community members or external organisations to enhance their cultural capability to implement the programs. This could be done on a short-term basis initially while developing the necessary cultural capability to deliver the program. For some schools, ongoing engagement with Elders or First Nations organisations may be beneficial to support the implementation of a whole-of-school approach in a culturally safe way.

Aboriginal and Torres Strait Islander peoples should be involved in the design and delivery of programs within schools, particularly in schools and other settings attended by high proportions of Aboriginal and Torres Strait Islander students. Co-designed, strengths-based, and culturally appropriate respectful relationships education should be available for all Aboriginal and Torres Strait Islander children.

While not compromising on core content, schools with cohorts of children from culturally and linguistically diverse backgrounds may benefit from respectful relationships education that has included relevant communities in its design and delivery.

Where appropriate, programs may be adapted to incorporate religious and cultural backgrounds and complexities. Flexibility will enable schools to tailor programs to the cultural diversity of their students.

Children and young people with disabilities should also be considered when implementing respectful relationships education, so they can access high-quality education adapted to their learning needs, whether in mainstream or special schools.

Schools can draw on the expertise of service providers to support and enhance the development and delivery of programs, particularly in managing disclosures and providing information about seeking help and support.

Implementation

As noted in chapter 1.2, Queensland state schools deliver the Australian Curriculum, which is currently under review, in an unmodified format. Most Catholic and independent schools also deliver the Australian Curriculum. The Australian Curriculum is intended to be used flexibly by schools, according to jurisdictional and system policies and schedules. Schools can implement the Australian Curriculum to 'reflect local contexts and take into account individual students' family, cultural and community backgrounds'.[47]

The Taskforce acknowledges that schools and teachers are challenged by the volume of content they are expected to teach. The review of the Australian Curriculum specifically aims to reduce overcrowding, particularly in the Foundation to Year 6 curriculum.[48]

The Taskforce also recognises that a whole-of-school approach will not follow the same path for every school. Meaningful engagement of the entire school community needs to be managed sensitively and appropriately. A degree of readiness may first be required.

Governance and other mechanisms need to be put in place to increase consistency in respectful relationships education in schools across the state. These should support schools to implement whole-of-school approaches to respectful relationships education, provide professional development for school staff, and provide the necessary monitoring, oversight, and reporting.

The Taskforce notes that work is underway to review the Queensland Department of Education's Respectful Relationships Education Program (RREP). The review follows a report by Our Watch published this year, identifying opportunities for improvement.[49] The Taskforce supports improvements to the RREP consistent with the findings of the Our Watch report.

The Taskforce does not comment on the desirability or otherwise of requiring Queensland schools to use the RREP. As outlined above, schools should be free to adapt and tailor the content and approach to the needs of their school communities while ensuring they include the core elements without compromise.

Engaging external providers, as noted above, may be beneficial to help schools deliver respectful relationships education or to support a whole-of-school implementation. The Queensland Government has committed to developing a list of recommended programs to help schools implement respectful relationships education.[50] However, further work is needed to ensure that selected external providers deliver high-quality programs that include the mandatory core elements.

Funding is required for professional development and resources to achieve the benefits of consistent, high-quality respectful relationships education delivered through a whole-of-school approach. The Queensland Teachers Union has consistently advocated for Queensland's RREP program to receive adequate funding, arguing that the Queensland Government 'has to date failed to provide any money or budget to the RREP implementation'.[51] The Union has highlighted the importance of adequate funding in achieving the goals of respectful relationships education:

> You fund what you value. RREP in Queensland desperately needs adequate funding and time to truly do what we know it can — make real, intergenerational change in attitudes towards gender equality and thus prevent gendered violence and [domestic and family violence].[52]

The Taskforce notes that the 2020–21 Victorian State Budget allocated $37.5 million to continue the state's Respectful Relationships initiative for a further four years.[53] The generational and cultural shift that respectful relationships education aims to achieve is expected to reduce future domestic, family and sexual violence. As noted above, although there are challenges in funding primary prevention initiatives, investment in respectful relationships education is expected to deliver long-term cost savings to government in addition to protecting future generations of Queenslanders.

The risks of mandating respectful relationships education across Queensland schools largely relate to challenges in achieving consistent rollout. The Department of Education may, for example, experience resistance from schools about implementing new requirements. To overcome these risks, the transition to whole-of-school respectful relationships education must be supported through adequate resources and support staff (as outlined above).

Another risk is that schools with limited resources or small staff numbers may struggle to understand or deliver the new requirements. Without proper training and professional development, there is a significant risk that the education children actually receive is delivered in an unsafe, incomplete, or ill-informed way.

As noted above, respectful relationships education may lead to students disclosing domestic and family violence or other abuse occurring at home. The domestic and family violence service system needs to support schools in developing and implementing mechanisms to respond appropriately.

Despite the costs and risks outlined above, consistent, high-quality respectful relationships education will provide students with the necessary tools and information to protect themselves and their peers from a wide range of abusive and harmful behaviours. Ensuring that the next generation of Queenslanders can enjoy healthy, happy relationships free from domestic, family and sexual violence is a significant, worthy, and cost-effective goal.

Human rights considerations

Mandating respectful relationships education protects and promotes several human rights under the Human Rights Act. Children have the right to be protected from all forms of violence.[54] The consistent promotion of respectful relationships will protect the personal security (section 29) of all children in Queensland through the primary prevention of domestic and family violence and the discouragement of all forms of violence more generally. This measure will also promote the protection of children (section 26), which is internationally understood to require taking appropriate social and education measures to protect children from all forms of violence, including physical and sexual violence.[55] Consistent respectful relationships education also ensures equal access to high-quality protective information without discrimination (section 15).

> Education has a vital role in empowering women … Increasingly, education is recognised as one of the best financial investments States can make.[56]

The right to education (section 36) is internationally recognised as including an obligation to remove gender and other stereotyping that impedes girls', women's, and other disadvantaged groups' access to education.[57] Respectful relationships education protects the right to education of girls in particular. It does this by addressing the drivers of gender-based violence that may interfere with their schooling, higher education, and adult lives.[58] It also protects the right to education of boys and empowers the non-binary.

According to the United Nations Committee on Economic, Social and Cultural Rights, adaptability is an essential feature of education.[59] It 'has to be flexible so it can adapt to the needs of changing societies and communities and respond to the needs of students within their diverse social and cultural settings'.[60] Ensuring that respectful relationships education retains an element of flexibility helps promote this right.

Increasingly, access to 'relationships and sexuality education' is being recognised as more than just a harm-prevention tool but 'a fundamental right in itself'.[61] More than just protecting children from abuse, high-quality respectful relationships education supports the wellbeing and self-determination of children and young people to make informed, healthy, and sound decisions about future relationships.[62]

Requiring consistency in respectful relationships education may arguably limit rights to privacy (section 25), the protection of families and children (section 26), freedom of thought, conscience, religion and belief (section 20) and cultural rights (section 27 and 28). Any possible limitations would arise from the anticipated concerns of some families, religious and cultural groups, and faith-based schools concerning the content of respectful relationships education. The Taskforce considers that any such limitations would be reasonably and demonstrably justified on the basis that their purpose is to achieve equal protections for children outlined above. Enabling schools to incorporate specific social, cultural, or religious elements into their respectful relationships education can be expected to reduce any restrictiveness of this recommended action.

Evaluation

To determine whether the goals of respectful relationships education in Queensland are being met, there is a need for regular monitoring and evaluation at a school, district, and state level, including hearing the voices of children and young people who have participated in the programs.

Within five years of implementing the plan, indicators of success would include:

- All children and young people regardless of the school they attend are provided with high-quality respectful relationships education, ideally delivered in the context of a whole-of-school approach, which includes, at a minimum, core elements to address the causes of domestic and family violence and sexual violence.
- Educators are supported to deliver respectful relationships education as part of a whole-of-school approach through professional development training and ongoing support.
- Respectful relationships education is delivered in a culturally safe and disability-accessible way that is relevant to the home lives and community of parents and students and is supported by community elders and leaders or local service providers.
- Appropriate governance and other mechanisms are in place to support schools to implement whole-of-school approaches to respectful relationships education, provide professional development to school staff, and provide necessary monitoring, oversight, and reporting.

Appropriate and regular accountability mechanisms should be established to provide public transparency to the community about what state and non-state schools have done to implement respectful relationships education and how a whole-of-school approach has been adopted.

Respectful relationships education for young people who are not engaged with school

The Taskforce noted in chapter 1.2 that young people who are not engaged in formal education have few opportunities to receive respectful relationships education. This is despite the high number of children under youth justice supervision or who are involved in the child protection system who have experienced or been affected by domestic and family violence.[63]

Particular efforts are required to engage young people who are not in formal education to ensure they too can benefit from respectful relationships education. While many of these children may not have contact with a service or government entity that could provide such education, every effort must be made to provide all cohorts of children with respectful relationships education that is appropriate for their needs and experiences. Children who are not engaged in formal schooling need access to respectful relationships education 'where they are' and in places that feel safe and supportive for them.

The Taskforce heard about the importance of making respectful relationships education available to different cohorts of children. This includes children accessing schooling through special schools, 'flexi schools' or other private providers, children in youth detention, and those children in the care of the child protection system who are not regularly attending school.[64] There are also opportunities for respectful relationships programs to be tailored and delivered in community youth services that vulnerable and disengaged young people already access, including those providing services for Aboriginal and Torres Strait Islander young people.[65] The Taskforce acknowledges the success of Project Booyah, particularly the model delivered for young women in Cairns in this regard.

The Taskforce recommends the rollout of specialist respectful relationships programs. These programs are to be delivered in locations and using modes of delivery that are accessible and engaging for children in various school settings, as well as those who are disengaged from school.

Programs for vulnerable children, including those in youth detention and disengaged young people such as those in care, should be tailored to the life experiences of these children. Many, if not most of the children in these settings, will have experienced significant trauma. The programs should be developed in consultation with key child protection and youth justice stakeholders and experts in child psychology to ensure a trauma-informed approach.

Recommendation 12
The Queensland Government expand the availability of respectful relationships programs for young people who are not engaged in formal education. Appropriately modified respectful relationships education will be developed and implemented in services and organisations that support vulnerable young people in locations and modes that are accessible and engaging for this cohort.

Implementation

To support the implementation of this recommendation, the Queensland Government should consult with youth support services, drop-in hubs, and existing services providing programs that engage with young people to determine 'what works' when communicating with the children they support.

Given that this cohort of children and young people is relatively small compared with children engaged in formal schooling, the cost of this recommendation should be comparatively small. Further, many community organisations are already working closely with young people to discuss respectful relationships and experiences of domestic, family and sexual violence. Additional funding will probably be required for services to update or expand the programs on offer or to add respectful relationships education to the programs provided in child protection or youth justice facilities. However, given that many children in this cohort will have experienced (and potentially even perpetrated) domestic, family or sexual violence, the Taskforce considers that investment in targeted prevention and early intervention for these children would be well justified.

The risks of this recommendation relate to the potential for inconsistent quality or messaging across funded services. For this reason, funding agreements for the delivery of respectful relationships programs delivered outside of formal schooling should involve particular quality and content standards.

Human rights consideration

Developing and delivering specialist respectful relationships programs for children disengaged from schooling promotes their human right to education (section 36). It will also protect families and children (section 25), promote equality (section 15) of access to education materials, and protect the personal security (section 29) of both the children and the people they interact with by preventing future domestic and family violence. A non-compulsory program is not expected to limit any human rights.

Evaluation

Within five years of implementing the plan, indicators of success would be:

- All children, regardless of schooling status, have access to respectful relationships programs through the services or government entities with which they have contact.
- Children in child protection and youth justice are regularly given access to appropriate and content-specific respectful relationships education.
- The results of respectful relationships programs are measured and monitored, including surveying the children and young people using the service.

Conclusion

Chapter 1.1 described the devastating harm caused by domestic and family violence to women, children, and men in our community. This harm permeates families and communities with significant economic and other costs to our broader society.

While we must do everything we can to improve our responses, it is only through a commitment to sustained and long-term effort that we can begin to address this abhorrent behaviour at its cause. We owe it to future generations and past victims to make this commitment and intensify our efforts at primary prevention.

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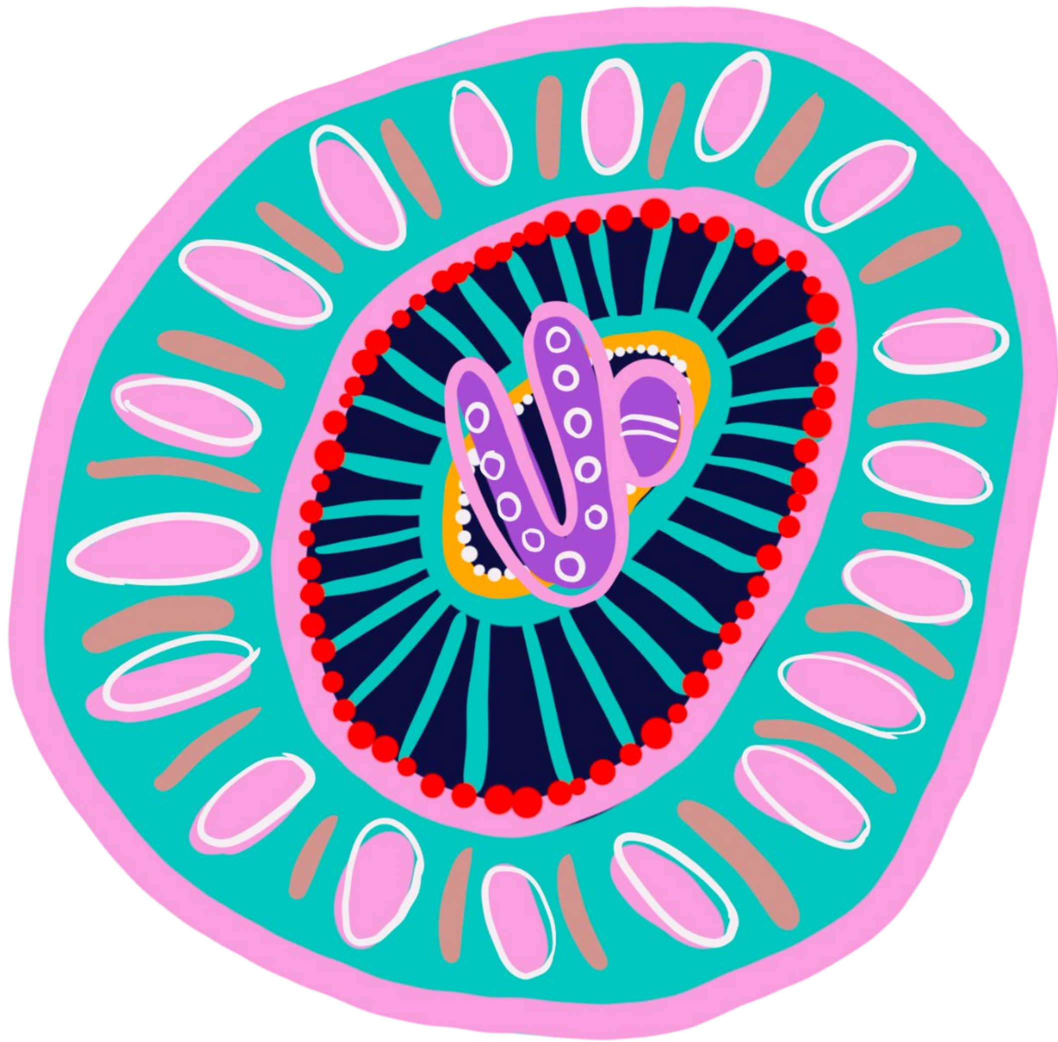


Chapter 3.3

Improving service system responses

As community awareness about domestic and family violence and coercive control increases, so, too, does the demand for high-quality, integrated, and responsive services. Victims and the community need services tailored and responsive to meet their needs and to keep them safe. In this chapter, the Taskforce discusses and makes recommendations about the need for a strategic investment plan to build an innovative and contemporary service system that meets future needs and demands across the state.

> 'Never in my wildest dreams would I believe that things could be so much worse after separation with absolutely no one to turn to and no support agency to help with the trauma of an abusive relationship and now facing the fact that I had to fight for my own children to be in my life.' [1]

The Taskforce has heard that demand for increasingly complex services and supports, by both victims and perpetrators, has outstretched supply, and services need more funding to be able to respond. However, the issues and challenges that the Taskforce has observed don't just relate to a need for additional investment. Following the increased investment in the service system in response to the *Not Now, Not Ever* report, the service system is at a point of maturity.

Strategic and planned investment is required to design a contemporary and innovative service system to meet the future needs and demands of victims and perpetrators. Services need to integrate more effectively and improve how they collect data, develop service models, and evaluate outcomes. Strengthened leadership is needed across the service system to support these changes and address common issues and goals.

The service system must recognise and meet the needs of Aboriginal and Torres Strait Islander peoples. It must also build capacity and capability to better meet the needs of people from culturally and linguistically diverse (CALD) backgrounds, people with disability, and LGBTIQA+ peoples who experience domestic and family violence. Young people require accessible supports and services that meet their needs as children exposed to domestic and family violence in the family home and as young people experiencing violence in their intimate partner and personal relationships.

The Taskforce has heard positive feedback about efforts to integrate and coordinate services to better identify and assess risk, develop safety plans, and coordinate services across the broader service system. These approaches need to continue to be a focus and be embedded state-wide as standard practice.

While there is considerable experience and expertise within the service system, there is a need for ongoing training and education to enable services to respond better to patterns of violence over time in the context of a relationship as a whole. Before commencing legislative reforms to create a new coercive control offence, services across the system need to be ready and able to meet the needs of victims who might not otherwise have come forward and to intervene to change perpetrator behaviour.

The Taskforce is of the view that more needs to be done to engage perpetrators early and to hold them accountable to stop the violence. Service and supports for perpetrators are seriously deficient across the state. There are significant gaps in availability and access to perpetrator programs. To keep victims safe, we need to focus on changing behaviour and stopping the violence. Investment in perpetrator interventions is investment in victim safety. The evidence about what works to stop the violence is evolving. In the meantime, we need to do more of what we know works, as well as trial and test different approaches to continue to build the evidence. Perpetrator interventions are explored further in chapter 3.4.

A service system response to coercive control

The Taskforce heard many positive accounts of support provided by specialist domestic and family violence services. It also heard about a range of challenges currently facing the domestic and family violence service system. As discussed in chapter 1.2, these challenges include an increasing demand for services, gaps in the types of available services, and challenges attracting and retaining a skilled workforce (particularly in regional and remote locations). Other challenges are a perceived lack of funding to meet demand, and an ongoing lack of sustained coordination and integration between services.

Service providers told the Taskforce that demand for their services is increasing. They anticipate that demand will continue to grow as the community becomes more aware of the nature and impact of domestic and family violence and coercive control.

As victims begin to understand that the coercive controlling behaviours they are experiencing are domestic and family violence, they will need accessible specialist expertise to help them stay safe.

As noted in chapter 1.2, while there is considerable expertise within the specialist domestic and family violence service system about the nuanced complexity of coercive control, the system also needs to improve so it can respond appropriately.

These are challenges for individual services, how services work together in an integrated and coordinated way, and how the system as a whole is designed and operates. This includes how the broader service system works together to meet the often multiple and complex needs of people who experience domestic and family violence. These needs may relate to health and mental health, drugs and alcohol, housing and homelessness, sexual assault, vulnerable young people and youth justice, and family support and child protection.

In its most recent annual report (2020–21), the Domestic and Family Violence Death Review and Advisory Board (DFVDRAB) found that there are 'challenges in appropriately recognising and responding to domestic and family violence that were consistent across agencies and systems.'[2] These included that:

- Queensland is diverse and regionally distinct
- service models are rigid, crisis-oriented and not always accessible
- services are not domestic and family violence informed or tailored to consider safety
- service delivery is fragmented both within and across agencies
- service responses are inconsistent within and across agencies.[3]

The Taskforce supports these findings.

The Taskforce also identified that there are common issues and challenges experienced by services and supports across the state and within particular areas. At this pivotal point of design and development, additional independent industry leadership is required to help services address these common issues and drive service system reform. This will build a contemporary and innovative system for the future that meets the needs of individuals and community expectations.

A strategic investment plan for an innovative and contemporary service system

The domestic and family violence service system has undergone rapid growth and change since the release of the *Not Now, Not Ever* report. This has been driven by increased community recognition of domestic and family violence and bolstered by significant government investment.

Domestic and family violence is not just a scourge on our community; it is a deeply engrained social issue that requires sustained effort over time to address. The successful implementation of Taskforce reforms will improve how services recognise and respond to patterns of abuse and how government and non-government services work together. It will require an increased focus on intervening and working with perpetrators as part of the response to keep victims safe.

The service system must operate effectively to support the-implementation of the Taskforce's recommendations. As the Queensland Government enters the next stage of its response to tackle domestic and family violence and coercive control, there is an opportunity to work with the existing strengths within the system to strategically plan and design the service to better meet the needs of the community into the future. It is clear to the Taskforce that new approaches are required to support a sustainable service system that meets the needs of victims, perpetrators, and Queensland's diverse and growing population into the future.

It is also clear that additional investment is required. The Taskforce's findings about the service system, echoed by those of the DFVDRAB, indicate it is not enough to simply increase investment. Rather, a strategic and systemic approach to service system design and investment is required.

There is significant work already being done to ensure sound investment decision-making and develop service system capacity and capability. The implementation of the new regulatory framework with new requirements for domestic and family violence services, discussed in chapter 1.2, is a marker of the efforts to improve practice consistency and improvement across the service system.

In light of the points made above, a five-year, whole-of-government domestic and family violence service system strategic investment plan will complement the work already underway and enable a longer-term outlook beyond decisions about currently available investment. It will also enable a planned approach to build the system over the forward estimates period and beyond, in line with the implementation of the recommendations for legislative reform outlined in this report.

Recommendation 13

The Queensland Government develop a five-year whole-of-government domestic and family violence service system strategic investment plan encompassing services and supports delivered and funded by Queensland Government agencies. The purpose of the investment plan is to provide a strategic and planned approach to better respond to existing and future demand in the system, support the introduction of new laws and reforms, and ensure there is a comprehensive framework of supports covering primary prevention, early intervention, and tailored and intensive responses.

The plan will support the development of an innovative and contemporary network of coordinated and integrated services over time as investment becomes available. It will guide investment decisions across government by maximising value for money, efficiency and effectiveness of current investment and the rollout of any future additional investment for services that support victims and perpetrators. Development of the plan will involve a comprehensive gap analysis of current services and supports building upon work undertaken in response to the *Not Now, Not Ever* report. The strategic investment plan will guide investment decision-making over the next five years in relation to:

- the coordination of investment across the service and justice systems
- equitable access and state-wide coverage of service system supports for victims and perpetrators
- culturally safe and capable services that provide choice to Aboriginal and Torres Strait Islander peoples including a shift in investment to community-controlled organisations over time
- services that are better tailored to meet the needs of people from culturally and linguistically diverse backgrounds, people with disability and LGBTIQA+ people, young people and older people
- an integrated and coordinated network of service system responses
- innovative and contemporary approaches including trialling and testing new service and intervention responses to build the evidence base about what works, where and for whom
- implementation of a redesigned referral pathway to improve access to services enabling victims and perpetrators to be directed to the right service at the right time and support increasing awareness and expertise of professionals across the broader service system.

Recommendation 14
The Queensland Government, in developing the strategic investment plan, prioritise establishing and adequately funding, a state-wide network of intervention programs for perpetrators (recommendation 25). This will prioritise the establishment of targeted and intensive programs for people, including young people who are convicted of domestic violence offences and are: in custody (including on remand); on community based orders, including recommended post-conviction civil supervision and rehabilitation orders (recommendation 80); and on parole. The plan will support the implementation of legislative reform against coercive control including the implementation of a new coercive control offence (recommendation 78).

Recommendation 15
After five years, the Queensland Government review the strategic investment plan taking into consideration the benefits that have been realised and outcomes achieved, and service gaps at that time. The review will inform the development of a further five-year plan.

Implementation

The strategic investment plan should include both government agencies and non-government services. This should ensure there is a coordinated suite of responses covering primary prevention, early intervention, and tertiary responses. It should also prioritise the state-wide rollout of programs for perpetrators (see chapter 3.4), as well as stronger and better supports and services for victims.

It is intended that, as part of the strategic investment plan, government agencies would collaborate continuously to improve integration and coordination across the service and justice systems. This should include progressing joint submissions to government seeking funding for collaborative and consistently aligned initiatives such as primary prevention, community-awareness campaigns, training, risk assessment, co-location and co-responder trials, and the expansion of perpetrator programs.

As noted in chapter 1.2, the Queensland Government has invested more than $600 million dollars for domestic, family and sexual violence programs, services, and strategies since 2015.[4] Most of this investment has been directed towards domestic and family violence services, guided to some extent by the *Domestic and Family Violence Services Audit Report,* prepared by KPMG[5] and the *Queensland Government Domestic and Family Violence Funding and Investment Model.*[6] The funding and investment model aligns with the timeframes of the *Domestic and family violence prevention strategy 2016–2026*. Work is yet to be done to sufficiently guide investment towards an innovative and contemporary service system and to articulate what such a system would look like.

The Department of Justice and Attorney-General (DJAG) has advised the Taskforce it will carry out an investment review of domestic and family violence services in late 2021.[7] The review is intended to inform the investment of the remainder of the $30 million allocated in the 2020–2021 budget, with the first 12 months of this investment having been allocated as a general funding boost to meet the demand that has arisen from the impacts of the COVID-19 pandemic.[8]

At the time of writing to the Taskforce, the investment review was in the final stages of planning with Queensland Treasury and other relevant agencies.[9] In addition to this commendable first step, work needs to be done to provide the strategic vision for a contemporary and innovative service system to meet future needs and demands.

The implementation of the reforms outlined in this report provides a critical juncture to set the vision for, design and forward plan investment in an innovative and contemporary domestic and family violence service system for the future.

Identifying gaps in service delivery

Chapter 1.2 identified gaps in available services to effectively respond to coercive control, especially in regional and remote areas of the state. Population groups in those areas are not well serviced within the existing specialist domestic and family violence service system, and there are few funded specialist and culturally appropriate services delivered by Aboriginal and Torres Strait Islander community-controlled organisations.

The first step in a strategic investment plan is a comprehensive analysis to update and map current services and identify needs and demand, and gaps and barriers. This analysis should go beyond the services audit undertaken by KPMG, which did not include an assessment of expenditure on 'significant generalist support services provided through areas such as health, police, child protection, education, homelessness programs and housing related services'.[10] A broader analysis will be better able to inform future decisions about how both government and non-government services are distributed and funded across the state.

The gap analysis should consider socio-economic factors impacting service delivery in specific areas and barriers to accessibility of services in regional and remote locations. During consultation with DJAG, the Taskforce heard that current investment decisions are based on demand and need analysis but that there is limited capacity within the department to overlay additional considerations such as socio-economic factors.[11] The initial gap analysis should draw from existing data across government, such as police callout data, housing and homelessness data, education data, and child protection and youth justice data to map and model a clear picture of what additional supports are most needed, where, and when.

While this may at first be a point-in-time analysis, there is need to develop an ongoing mechanism to measure and monitor trends to model future needs and demands across the community. The collection of data and information for this purpose should also contribute to measuring system outcomes as part of the monitoring and evaluation framework recommended by the Taskforce (chapter 4.1). Given the quantum of investment by government in the service system and the desperate need to deliver outcomes, the resources and effort required to do this work properly is critical and justified. An ability to measure and understand needs and demand for services should also inform where and how additional resources should be made available across the system, thereby improving value for money.

In developing the strategic investment plan, the Queensland Government should consider the following priority areas to guide decision-making over the next five years:

- the coordination of investment across the service and justice systems
- equitable access and state-wide coverage of service system supports for victims and perpetrators
- culturally safe and capable services that provide choice to Aboriginal and Torres Strait Islander peoples, including a shift in investment to community-controlled organisations over time

- services that are better tailored to meet the needs of people from culturally and linguistically diverse backgrounds, people with disability and LGBTIQA+ people, young people and older people
- an integrated and coordinated network of service system responses
- innovative and contemporary approaches, including trialling and testing new service and intervention responses to build the evidence base about what works, where, and for whom
- implementation of a redesigned referral pathway to improve access to services, enabling victims and perpetrators to be directed to the right service at the right time and support increasing awareness and expertise of professionals across the broader service system.

Development of the strategic investment plan should be informed by consultation with domestic and family violence stakeholders, Aboriginal and Torres Strait Islander stakeholders, and people with lived experience.

Equitable access and state-wide coverage of service system supports for victims and perpetrators

Access to services across Queensland's large geographical area and the barriers to service delivery in regional and remote locations were consistent themes in Taskforce consultation, as outlined in chapter 1.2.

The difficulties that government and non-government service providers face in attracting, recruiting, retaining, and accommodating a skilled workforce in regional and remote locations, so they can provide service continuity, were also discussed in chapter 1.2. For example, the Taskforce visited one remote community where a funded perpetrator intervention program had not been operating for some time because of difficulties recruiting a skilled worker to deliver it.

In the Torres Strait Islands, the community expressed frustration that when government employees (including police officers) come to the community for a short time, they often have no opportunity to build rapport and trust with the community before they are required to move on.[12] The community on Palm Island expressed similar frustrations.[13] Both communities raised that this impacts outcomes for individual victims and perpetrators and can lead to inefficiency as new staff are trained and relationships are re-established.

In chapter 1.2, it was noted that data and analysis produced by the Queensland Government Statistician's Office showed rates (per 100,000 adults) for applications for Domestic Violence Orders, cross-applications, and charged breaches of Domestic Violence Orders were higher in Queensland's remote and regional locations compared with Queensland's major cities.[14] In light of this analysis, it is imperative that the Queensland Government focus investment and service delivery efforts proportionately on improving service delivery and workforce retention in regional and remote areas. The Taskforce is of the view that directing investment towards regional and remote service delivery will achieve value for money by focusing on these areas of high need.

Improving access to high-quality services in regional and remote communities should be a focus in the strategic investment plan. Options that should be considered are:

- financial and non-financial incentives to attract and retain skilled workers (as part of contracts with service providers delivering services in these communities), taking into consideration the circumstances of each regional and remote community — this could include provision for subsidised housing and rewards for longer lengths of service

- partnerships and scholarships with regional universities and schools to encourage young people from the community to stay and work professionally in the region
- building recognition and reward for regional and rural service into recruitment and promotion selection criteria for jobs within the Queensland Public Service and Queensland Police Service.

Culturally safe and capable services for Aboriginal and Torres Strait Islander peoples

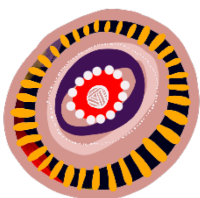
The service system must recognise and be responsive to the particular needs of Aboriginal and Torres Strait Islander peoples. This involves ensuring services are delivered by and for Aboriginal and Torres Strait Islander people and that all services are culturally capable.

The Taskforce met with a range of services run by and for Aboriginal and Torres Strait Islander peoples and communities. The Taskforce witnessed firsthand the value of specialist domestic and family violence services delivered by First Nations peoples including on Thursday Island and Palm Island, and in Townsville, Cleveland, and Toowoomba. The Taskforce also met with government and non-government Aboriginal and Torres Strait Islander professionals, academics, and service providers in consultation forums and meetings. The Taskforce had the honour of meeting with the members of the First Children and Families Board and the Aboriginal and Torres Strait Islander Domestic and Family Violence Prevention Group. Throughout all of these discussions, the enormous depth of specialist expertise in First Nations communities was apparent. Many of these services are working creatively, often without funding, to connect victims and perpetrators to culture, country, and community to stop the violence and keep people safe.

The strategic investment plan should include shifting investment to community-controlled organisations over time and improve the cultural capability of the broader domestic and family violence service system.[15]

The Taskforce observed that there is a need for choice and privacy in service delivery for Aboriginal and Torres Strait Islander peoples. In some small communities, the limited service choice means victims and perpetrators have, as their only option, a service provided by family or community members whom they know or with whom they have had a previous negative experience.

The Aboriginal and Torres Strait Islander Legal Service Queensland told the Taskforce:



> A holistic approach is required to address these issues including more culturally competent services and programs designed and delivered by Aboriginal & Torres Strait Islander people to their own communities.[16]

Queensland's Framework for action — reshaping our approach to Aboriginal and Torres Strait Islander domestic and family violence[17] includes a commitment by the Queensland Government to a new way of working with Aboriginal and Torres Strait Islander peoples, families, and communities. One of the strategies under the framework is to 'engage Aboriginal and Torres Strait Islander communities and community controlled organisations to deliver the services needed'. The strategy provides that 'community focused, driven and managed organisations should be prioritised to deliver services for Aboriginal and Torres Strait Islander people experiencing domestic and family violence'. The development of a strategic investment plan provides an avenue to deliver on this commitment.

The Queensland Government *Moving Ahead strategy* (2016-2022) sought to drive improvements in economic participation outcomes for Aboriginal and Torres Strait Islander Queenslanders.[18] As part of the strategy, the Queensland Indigenous (Aboriginal and Torres Strait Islander) Procurement Policy set targets to increase government procurement with First Nations businesses by 2022.[19] The policy aimed to increase procurement with First Nations businesses to be 3% of the value of government procurement contracts by 2022. These goals are important to ensure First Nations peoples can exercise self-determination. Given the over-representation of Aboriginal and Torres Strait Islander peoples in the domestic and family violence and criminal justice system, the Taskforce is of the view that these commitments are minimal and a more proportionate goal representative of service need is appropriate. Investment of this kind is also economically attractive, given the high cost to the community of incarcerating prisoners.[20]

In consultation with Aboriginal and Torres Strait Islander stakeholders, consideration should be given to whether a justice reinvestment approach may be suitable for discrete communities across Queensland. The success of the Maranguka Justice Reinvestment Project in Bourke, New South Wales, was highlighted in submissions to the Taskforce.[21] The project achieved significant reductions in domestic violence offences through early intervention and wrap-around community support. Justice reinvestment approaches involve funds being shifted away from courts, police, and prosecutors and redirected into programs controlled by communities and non-government organisations, under the consultation and guidance of victims/survivors.[22] While the Taskforce has not substantially considered the merits of justice reinvestment in this report, further work should be done to explore this option. This may be as an approach trialled with the support of an appropriate community as part of the strategic investment plan, and part of the strategy to address the over-representation of Aboriginal and Torres Strait Islander peoples in the criminal justice system (chapter 2.2).

The Queensland Government should take into account the findings and recommendations of the 2016–17 Queensland Productivity Commission report into service delivery in remote and discrete Aboriginal and Torres Strait Islander communities, [23] discussed in chapter 1.2, when increasing proportional investment. It should also work closely with First Nations communities to find flexible and innovative solutions to service delivery concerns.

Services that meet the needs of people from culturally and linguistically diverse backgrounds, people with disability, LGBTIQA+ people, young people, and older people

A contemporary service system needs to be able to meet the needs of a diverse range of victims and perpetrators while balancing the tension between urban demand and the need for accessibility across the state. The strategic investment plan should balance meeting existing demand, which may be skewed towards the needs of current clients, with actual and currently unmet needs. Legal Aid Queensland gave an example of gaps in service delivery for particular populations in relation to domestic and family violence court support services:

> Additional service response gaps are observable when working with Aboriginal and Torres Strait Islander people, people from culturally and linguistically diverse backgrounds and LGBTIQA+ clients.[24]

Specialist domestic and family violence services should meet diversity of need in the community and respond to intersectional issues.

Service responses for victims and perpetrators of family violence should be available, appropriate and tailored for First Nations peoples, people from CALD backgrounds, LGBTIQA+ people, people with disability, older people and young people, and people in regional locations. For First Nations peoples in particular, services should be designed with them, for them, and delivered by them.

The Taskforce heard that the current focus of specialist services on meeting the needs of female victims can mean there are few options for LGBTIQA+ people. It is becoming increasingly clear that the prevalence of violence in intimate partner LGBTIQA+ relationships is high.[25] One LGBTIQA+ victim told the Taskforce that although some services display a pride flag and indicate that they accept LGBTIQA+ clients, the reality is that they lack the skills to address the issues and may not accept victims who identify as male.[26]

Services also need to be available for and responsive to victims with complex needs, trauma, and co-morbidities. The Taskforce heard that for victims experiencing homelessness and those with mental health conditions such as post-traumatic stress disorder, the barriers to accessing supports and services may be so great that they are effectively locked out and unable to get the help they need.[27] Expanding expertise to enable supports to be tailored and appropriate referrals to be made, and continuing to roll out and embed integrated and coordinated approaches, will go some way to addressing this gap in access to services.

The strategic investment plan should have a focus on achieving coverage across a continuum of supports. Investment principle 3 of the *Queensland Government Domestic and Family Violence Funding and Investment Model* is that 'investment is balanced across the continuum of service responses'.[28] Despite this, the most recently available *Queensland Government Domestic and Family Violence Investment Summary* revealed that in 2019, 60% of investment since 2015–16 had been directed at crisis responses, while 22% had been invested in recovery, 13% in early intervention, and only 5% in prevention.[29]

Improving the balance of investment across a continuum of supports is a significant challenge. People in crisis need an immediate response. But as the criminal justice system response is strengthened with the commencement of a new offence, not doing so is likely to be a false economy. Significant investment is required to rehabilitate and incarcerate offenders after the abuse has occurred and harm caused. From all perspectives, it is imperative that government does more to intervene early and stop the violence before it escalates to a point where a perpetrator is being charged and convicted of an offence.

Innovative and contemporary approaches to find out what works, where, and for whom

As discussed above, Queensland's investment is currently weighted towards crisis response, including a focus on crisis accommodation.[30] Domestic and family violence shelters play an indispensable role in providing women fleeing violence with safe short-term accommodation, support, and access to other supports and services. While the 'shelter model' has operated well for decades, the Taskforce has heard that it is not sustainable[31] as the only option for short-term safe accommodation for women and their children. Shelters generally do not give women enough time to recover and re-establish themselves.[32] They are also not suitable for some women, including those with sons or teenagers, those with pets, or women from CALD backgrounds or with disability.[33] We have also heard that limited space in shelters results in women travelling across the state to access a bed, often requiring them to travel long distances away from family, friends, and their broader support network.[34]

While shelters are likely to continue to be required as a component of crisis support, there is a need for new approaches to link victims or perpetrators more directly with safe and stable accommodation, services, and supports.

The Taskforce observed innovative and promising practices in some services, which were not always funded by government. A community-led initiative in the Torres Strait, for example, identifies local community members on outer islands to become trained local champions who voluntarily offer their homes as safe places for women escaping violence.[35] The outcomes achieved in response to innovative practices such as these should be closely monitored, evaluated, and assessed for effectiveness and applicability in similar contexts.

Under the *Housing and Homeless Action Plan 2021–2025*[36] delivered by the Department of Communities, Housing and Digital Economy, the Queensland Government will deliver $20 million to provide:

- additional Flexible Assistance Packages of up to $5000 per household for people experiencing domestic and family violence for goods and services needed to maintain or access safe housing
- additional headlease housing
- specialised frontline housing services through the Domestic and Family Violence Specialist Response Team.[37]

Stakeholders repeatedly identified the lack of access to safe, affordable, and secure housing as a significant barrier to leaving violent and abusive relationships. While the recent Action Plan initiatives are promising, the Taskforce has heard that chronic shortages in suitable and available housing stock in some locations is a major issue. One member of parliament described this as an ongoing critical issue in her electorate for women and their children escaping domestic and family violence and a significant driver of homelessness and overcrowding. This is one of the many cross-agency 'wicked issues' that a whole-of-government strategic investment plan could help address, including through corporate partnerships and pilot programs.

The strategic investment plan should incorporate trialling and testing new and innovative approaches to build the evidence base and support longer-term investment. A peak industry body, discussed later in this chapter, could play an important role in supporting innovation within the specialist service system, including assisting providers to participate in new ways of working.

As mentioned above, the Taskforce is interested in innovative options for multidisciplinary, co-located service hubs, including those operating in other jurisdictions.[38] Hub models involve multiple agencies and services sharing the common goal to keep victims safe and hold perpetrators to account coming together to work collaboratively from the same location. Hubs also have the potential to expand service reach through satellite or outreach services to surrounding areas.

The Taskforce visited and was impressed by the Women's Centre that operates in Townsville and surrounding regions to provide sexual assault support services, women's health, domestic and family violence support, and a specialist homelessness service from a multidisciplinary hub. This is an example of a victim-focused approach to meet the needs across a region. While in Cairns, the Taskforce heard of the desperate need for a sexual assault service hub to provide outreach and professional support across the Cape and Gulf regions, including to ensure timely, high-quality forensic examinations.

The Taskforce considers that there is merit in exploring how such a model could operate more broadly in Queensland and will consider this further in its second stage of work.

An integrated and coordinated network of service system responses

The Taskforce heard that there is a need for improved integration and coordination across service systems. A strong theme during consultation was that integrated service responses and High Risk Teams, while anecdotally delivering better outcomes, are only available in some locations. The Taskforce considers this issue further and makes a related recommendation later in this chapter.

Integration and coordination of services is also required to establish a 'web of accountability' for perpetrators. Perpetrators of domestic and family violence regularly come into contact with a spectrum of human services agencies, including those providing mental health services, alcohol and other drugs services, and child protection services. A conceptual shift is needed to recognise these human services as essential parts of a broader network of perpetrator intervention responses.[39]

There is an existing need for more programs to support the rehabilitation of perpetrators (chapter 3.4). Implementation of the legislative reforms recommended by the Taskforce and the commencement of a new offence will require new and more intensive rehabilitation responses for perpetrator offenders. Perpetrator programs and services should be closely integrated and coordinated with supports and services for a victim as an essential component of program design. The strategic investment plan should prioritise the rollout of additional perpetrator interventions across the state, particularly for people who are involved in the criminal justice system.

A redesigned referral pathway to improve access to services

The domestic and family violence service system should enable victims and perpetrators to access the services and supports they need when they need them. Victims access services and supports through various pathways,[40] and services themselves reported establishing ad hoc referral pathways in their local areas through their relationships with other services.[41] The challenges facing government-funded helplines under DVConnect were also discussed in chapter 1.2.

While the Taskforce acknowledges the collaboration of many government and non-government services in establishing localised referral pathways, the absence of a consistent and easy-to-use referral pathway for victims and perpetrators seeking support poses significant risks. Relying on the knowledge of and relationships between services to refer victims and perpetrators is particularly problematic, given need and demand across the state, particularly in regional and remote communities. During consultation with women from CALD backgrounds in Toowoomba, for example, the Taskforce heard that multiple referrals for interpreters, translators, visa support, education, driving lessons, housing support and child care may be necessary to support women leaving abusive relationships.[42]

As demand grows and service offering is expanded across the continuum of responses, the current ad-hoc approach to negotiating and implementing local referral pathways risks becoming increasingly ineffective and inefficient across the system. More options for people to access services will require improved coordination and streamlining. As government and non-government agencies train their staff and awareness grows, specialist domestic and family violence services will increasingly connect their clients to other services and vice versa. Services need to have clear referral pathways to enable them to use their valuable and limited time and resources well.

A redesigned referral pathway that is victim-focused and easy to use would be beneficial for professionals, mainstream services, and individuals who could make contact, have their needs assessed and triaged, and be referred to the type of support they need.

Establishing a state-wide network of programs for perpetrators

The Taskforce has heard in almost every consultation session about the need for more perpetrator programs to hold perpetrators accountable to stop the violence. As a key mechanism for keeping victims safe, these are a critical component of a contemporary specialist service system. Increasing the availability and accessibility of perpetrator programs across the spectrum of intervention, including tailored programs to meet the needs of all perpetrators, is a fundamental requirement to address coercive control in Queensland, as outlined in chapter 3.4. The limited availability of perpetrator-intervention programs across the state is a major weakness in the domestic and family violence service system and one that needs urgent attention in the recommended four-phase implementation plan (chapter 2.3).

The strategic investment plan must prioritise the establishment of a state-wide network of programs for perpetrators, particularly those convicted of a domestic and family violence offence, including young people (chapter 3.4).

Five-year review of the strategic investment plan

The Taskforce recommends that the strategic investment plan initially guide investment and service system design over a five-year period. This provides an opportunity to plan and roll out investment, including the reallocation of existing resources required to support implementation of the recommended four-phase plan (chapter 2.3). During this period, system outcomes should be measured and monitored (chapter 4.1) to inform ongoing implementation and review of the plan.

After five years, the strategic investment plan should be reviewed and a further plan developed. This provides an opportunity for government to have a ten-year outlook on the design and development of the specialist service system while measuring and monitoring needs and demand, as well as the outcomes achieved along the way.

Human rights considerations

The Australian Human Rights Commission (the AHRC) has identified that Australians living in remote and regional Australia face barriers to realising their human rights because of higher costs for service delivery, remoteness, extremes of weather, and the variability of regional economies.[43] The AHRC has noted that this inequality can limit regional Australians' enjoyment of civil and political rights (such as rights in legal proceedings) as well economic, social, and cultural rights (such as the rights to health, education, and housing).[44]

Ensuring the equitable distribution of services by providing state-wide accessibility and considering the specific needs of certain population groups will promote the above rights. It will also promote recognition and equality under the law (section 15), and cultural rights (sections 27 and 28). In particular, an increased focus on funding culturally capable services for Aboriginal and Torres Strait Islander peoples will promote the right to self-determination and cultural rights of these peoples (section 28).

Generally, strengthening responses to domestic and family violence across the broader government service system will promote the personal rights engaged when domestic and family violence is prevented, including the right to life (section 16), the right to liberty and security of person (section 29), and the right to protection of families and children (section 26).

The development of a strategic investment plan is not expected to limit human rights. However, the way the plan is developed and implemented and subsequent investment decisions are made has the potential to do so. In particular, the plan will risk limiting the right to recognition and equality before the law (section 15) if it does not provide adequately for the distribution of services across the state to meet the needs of specific cohorts of people. The Queensland Government should engage with service providers and users in the development of the strategic investment plan to avoid this outcome.

Evaluation

As noted above, the strategic investment plan should be developed early in the recommended four-phase implementation plan to inform investment decisions made over a five-year period. The strategic investment plan should incorporate monitoring, evaluation, and review of services to inform future investment decisions. The plan itself should be reviewed after five years and a new strategic investment plan developed at that point.

A common approach to intersectional issues

The Taskforce heard of barriers to service access for victims with disability, LGBTIQA+ victims, and Aboriginal and Torres Strait Islander victims of coercive control (chapter 1.2). As noted in 1.1, intersectionality refers to the fact that people often experience interconnecting structural inequalities (such as racism, sexism and ableism) that heighten and prolong their experiences of disadvantage and marginalisation.[45] This occurs when victims of domestic and family violence are not able to access appropriate services that address their needs or are hesitant to seek help for fear of discrimination. Individuals who are disadvantaged and marginalised are highly vulnerable to becoming homeless, developing problematic substance misuse, or developing mental health issues.

The Taskforce heard of victims becoming entrapped in the perpetrator's ongoing cycle of violence and abuse, with little access to support and safety such as housing, social and counselling support, finances, or employment (chapter 1.2).

The Queensland Government has undertaken work to address barriers that impact service accessibility for victims of domestic and family violence, in particular for Aboriginal and Torres Strait Islander peoples and individuals with disability. This work includes *Queensland's framework for action[1]* (mentioned above), which promotes targeted responses to Aboriginal and Torres Strait Islander victims of domestic and family violence.[46] The Queensland Government has also released its plan to respond to domestic and family violence against people with disability.[47] Under this plan, the Queensland Government has committed to ensuring integrated service system responses for domestic and family violence include disability advocacy organisations and relevant disability service providers working in the local area.

The Taskforce recognises this work has potential to strengthen service responses to domestic and family violence victims with complex needs and promote appropriate services for Aboriginal and Torres Strait Islander peoples. However, there is a risk that improvements in service accessibility may occur in some sections of the service system but not throughout. This would reduce the overall impact these initiatives have on service accessibility and create inconsistencies in service responses. The Taskforce has observed that some aspects of the system are more equipped to address complex and diverse needs than others.

An intersectional approach may help to explain and educate first responders that not all victims will present in the same way. Despite their fear, some victims may present as proud, strong and determined. Others may react violently or, when faced with the prospect of the perpetrator being taken into custody, become terrified that he might die in custody. A person with intellectual disability who is impacted by trauma may require longer to tell the story of what happened to them and may be reluctant to talk to police if they have had negative experiences with people in authority.

Research shows service planning and delivery can be enhanced to better meet their needs through the use of an 'intersectional lens'.[48] An intersectional lens means understanding that a person or group of people may be affected by intersecting forms of discrimination and disadvantage.[49] It enables service providers to take into consideration people's overlapping identities and experiences in order to understand the complexity of prejudices they face. An intersectional perspective means professionals and service providers are able to have a deeper understanding that there is diversity and nuance in the ways in which people hold and experience power. It encourages a broader understanding beyond a single issue or a simple explanation for behaviours or experiences. It recognises that victims have diverse experiences and are impacted by those experiences differently.

A common approach to integrated service response is useful in pulling together strands of supports across the service system to better meet the needs of victims with complex and intersecting needs. The challenge is knowing how intersectional issues compound to present barriers that require more active efforts as part of this type of response in an individual case. A common approach that is informed by the experiences of victims with diverse and/or complex needs should be developed. For example, this should enable people with disability, First Nations peoples, people with mental health issues, those experiencing homelessness, LGBTIQA+ peoples, and people from CALD backgrounds to seamlessly navigate between supports and services, including services they may already be accessing, to address issues related to domestic and family violence.

Continued integration and coordination between domestic and family violence services and other specialist services (disability, mental health, alcohol and other drugs, Aboriginal and Torres Strait Islander services, and CALD services) can also help to address or minimise the mismatch between victims and the accessibility of services from which they seek help.[1] Responses to victims with complex needs, such as women with disability, should be strengthened through improved cross-sector collaboration. Agencies and services working collaboratively in an integrated approach may be more able to find creative solutions to address victims' needs.

Recommendation 16

The Department of Justice and Attorney-General, in partnership with the recommended integrated peak body (recommendation 17) and in consultation with legal, domestic and family violence and Aboriginal and Torres Strait Islander stakeholders and people with lived experience, support all parts of the system to better respond to the multiple and complex needs of people who experience domestic and family violence as a victim or a perpetrator.

This will include embedding a common approach to respond to intersectional issues so that services and supports are more accessible and responsive to the needs of victims with multiple and complex needs.

All services will better meet the needs of Aboriginal and Torres Strait Islander peoples, people from culturally and linguistically diverse backgrounds, people with disability and LGBTIQA+ peoples, young people and older people.

Implementation

Implementation of this recommendation will require an increased level of understanding and awareness of domestic and family violence and coercive control and the skills to know how to seek help across mainstream services and the broader service system. It will also require consideration of the involvement of additional agencies and services as required as part of an integrated service system response or High Risk Team.

Further embedding domestic and family violence services in Aboriginal and Torres Strait Islander health services, which are non-stigmatising and accessible to First Nations peoples, should be considered as part of this approach. Establishing or 'outposting' domestic and family violence expertise within existing community services that support vulnerable people should also be considered.

The implementation of this recommendation requires co-design with service users, including Aboriginal and Torres Strait Islander peoples, people from CALD backgrounds, people with disability, and LGBTIQA+ people to ensure services are accessible and meet their needs.

Human rights considerations

Improving services and supports to better meet the multiple and complex needs of people who require them will promote a several rights under the Human Rights Act, including the personal rights engaged when domestic and family violence is prevented, responded to early, and victims are kept safe. This includes the right to life (section 16), the right to liberty and security of person (section 29), and the right to protection of families and children (section 26).

Ensuring services are responsive to intersectional issues will promote recognition and equality under the law (section 15), cultural rights generally (section 27), and the cultural rights of Aboriginal and Torres Strait Islander peoples (section 28).

Evaluation

Measuring and monitoring the implementation of this recommendation and the benefits and outcomes achieved as a result will require agencies and services to agree on indicators and measures and have suitable and appropriate processes to collect and analyse data, including baseline data and data specifically relating to their clients' needs.

Monitoring and evaluation of outcomes for victims and perpetrators as a result of the implementation of this outcome should include feedback from people with lived experience.

Domestic and family violence service system leadership

There is considerable expertise in the specialist domestic and family violence service system in recognising and responding to the patterned nature of coercive control.

Services across the state experience common challenges and issues. These include issues related to negotiating referral pathways, developing collaborative working relationships with government agencies, dealing with workforce challenges, and implementing government requirements and standards.

Whilst there are a number of existing service networks, the Taskforce has observed individual services largely working to resolve these issues themselves. This is inefficient because it diverts limited resources away from frontline service delivery.

The absence of a funded integrated peak organisation for domestic and family violence services across Queensland limits the support available to service providers to improve the consistency, capacity, and capability of services and innovation across the industry. It also limits the role services play in leading service system reform.

An integrated peak body

The Taskforce acknowledges the significant contribution that existing networks within the domestic and family violence service system provide. The Taskforce also understands that services, networks, and peaks currently engage with government to support the implementation of reform, contribute to consultation, and lead community education, often without specific funding for this purpose. However, the Taskforce heard that expectations on service providers to perform additional functions is often unrealistic in the face of limited funding and significant demand:

> There is limited funding for us to deliver prevention and awareness raising activities, led by trusted local [domestic and family violence] services. Several [domestic and family violence] services are not funded to deliver training, yet we have received numerous requests from external agencies for this (at no cost). We believe that to increase understanding of coercive control, we need to reach the whole community … funding is limited in our support services let alone responding to needs to educate our community.[50]

Several other state and territory governments have established and funded peak bodies for the domestic and family violence service system. The Queensland Government, however, does not fund an independent peak body to provide overarching leadership, represent the system in negotiations and reform, or support service system development, innovation and reform. Existing networks, which generally run on membership fees or grants and donations, do not have the capacity to perform functions to the same standard as those seen in other Australian jurisdictions.[51]

The DFVDRAB recently considered that the establishment of a peak in Queensland 'would provide an essential platform to bring together specialist organisations state-wide'.[52] The Board recommended that the Queensland Government:

> commit to designing a model for a peak body for domestic and family violence services to further the objective of increased integration, and workforce development, undertake broader sector advocacy, and support the successful implementation of government policies and reforms.[53]

The Taskforce supports and builds upon this recommendation.

Peak bodies in other jurisdictions highlight the broader and more strategic role played by robust, funded, authoritative peaks.

New South Wales

Domestic Violence NSW (DVNSW) is an independent, non-government organisation that provides representative and advocacy functions for specialist domestic and family violence services.[54] Its functions include advocating for best practice and system improvements, supporting primary prevention and early intervention work, and providing training and service system information to members.[55]

DVNSW is partly funded though the NSW Department of Communities and Justice's Sector Development Program, and provides input on commissioning, contracting and service delivery frameworks through the department's Peaks Working Group.[56]

DVNSW is an example of how a well-resourced peak body can support the service system. In 2020, it supported its members to provide crisis response and manage the impacts of the COVID-19 pandemic, including through convening weekly webinars, developing resources, and providing one-to-one sessions by phone.[57] DVNSW also drafted the NSW Women's Alliance Emergency Briefing to the New South Wales Government on supporting people experiencing sexual, domestic and family violence during COVID-19, shaping the NSW Government's response and approach to funding.[58]

Victoria

The role of Domestic Violence Victoria (DV Vic) broadly includes policy advocacy and advice to government. It leads innovation, strengthens specialist practice, and builds human services capacity. DV Vic has developed a Code of Practice for services, works with government agencies in the design and implementation of key elements of systemic reform, and provides specialist advisor support to service providers.[59]

In its submission to the Victorian Royal Commission into Family Violence, DV Vic noted the importance of a robust and independent peak body:

> The value and role of the specialist family violence services system is supported by having an independent and sector-specific peak body … The family violence sector has been through significant reform during this period and the presence of a peak body — free from vested interest in service delivery — has enabled a continued focus on keeping the best interests of women and children experiencing family violence central to decision-making. ... A fundamental aspect of our role, as the peak body, is our ability to advocate at all levels of government, bureaucracy and the broader community across the range of family violence-related issues. As a strong and credible voice, a robust peak body can be most effective in challenging and promoting ideas in the interests of women and children affected by family violence and preventing violence against women.[60]

South Australia

In 2019, the Coalition of Women's Domestic Violence Services of SA was rebranded to 'Embolden, the Alliance for Women's Freedom, Equity and Respect'. The transition involved broadening its strategic focus from domestic and family violence to include sexual violence.[61] Embolden is now South Australia's peak body lobbying and advocating for the elimination of violence against women. Its membership primarily includes domestic and family violence services, homelessness services, First Nations services, and a state-operated rape and sexual assault service.[62]

Scotland

One of the key strengths of Scotland's recent introduction of a criminal offence of coercive control was the close collaboration across the community, including the service system represented by Scottish Women's Aid, which is the national office of a network of local Women's Aid groups. Marsha Scott, CEO of Scottish Women's Aid, described the process as involving 'unprecedented engagement by officials with victim-survivors and their advocates in the law's development and passage'.[63]

During the drafting of the legislation, Scottish Women's Aid played a key role facilitating consultation and testing proposed language with survivors, service users, and staff working directly with women, children and young people experiencing domestic abuse.[64] Scottish Women's Aid, along with other service providers, was also funded to foster improved understanding within communities and to develop bespoke training and resources for staff to support implementation of the new legislation.[65]

Sexual assault service system leadership

As noted above, DJAG has engaged in discussions with both domestic and family violence and sexual assault services about establishing a single integrated peak body for the service systems.[66]

The Taskforce is aware that sexual assault services, including the Queensland Sexual Assault Network, strongly oppose the establishment of an integrated peak body that combines both sexual assault services and domestic and family violence services. During consultation, the Taskforce heard that the domestic and family violence service system often 'overshadows' the sexual assault service system.[67]

The Attorney-General and Minister for Justice and Minister for the Prevention of Domestic and Family Violence recently announced funding of $150,000 'for the Queensland Sexual Assault Network (QSAN) to support them in undertaking their secretariat function across the network of specialist sexual assault services'.[68]

The Taskforce considered whether the services and supports provided by the integrated peak body for domestic and family violence services should be extended to sexual assault services. Some Taskforce members were also strongly opposed to a joint peak for both domestic and family violence and sexual assault services. They argue that it would not be in the best interests of the sexual assault sector and would have no benefits for victims or services. The Taskforce heard that previous attempts to create a joint peak body have been unsuccessful, and that the voices of sexual assault services tend to be 'drowned out' by the much larger domestic and family violence service system.

Sexual assault services experience many similar issues to those experienced by domestic and family violence services. However, there may be benefits in similar supports as are envisaged for the domestic and family violence service system also being made available to sexual assault services, especially given the considerable number of submissions received by the Taskforce from victims who experienced sexual violence within the context of domestic and family violence and coercive control.

Leadership within the sexual assault service system to improve women's and girls' experiences across the criminal justice system will be explored as part of the Taskforce's second stage of work.

Recommendation 17

The Queensland Government establish and adequately resource an independent and integrated peak industry body for all specialist domestic and family violence services including shelters and perpetrator intervention services.

The main functions of the peak body will include:

- systemic advocacy, including supporting individual services to continue to participate and provide input into systemic and legislative reform processes
- service system capacity and capability building including to identify and address common workforce, industrial, workplace health and safety issues
- improving state-wide coordination and integration of services including with other government and non-government services
- assisting in the development and implementation of practice standards and quality improvement
- assisting in the development and implementation of mechanisms to collect and report on data to support ongoing performance improvement across the service system
- leveraging and maximising investment across the service system including improving coordination and integration between services
- supporting innovation and the delivery of efficient and effective services for victims and perpetrators
- supporting implementation of Taskforce recommendations and future systemic forms

in partnership with services, First Nations peoples, and the Department of Justice and Attorney-General, leading the development of a consistent cultural capability plan for non-Indigenous providers and supporting services on their journey towards cultural capability.

This body will complement and support the role of existing Aboriginal and Torres Strait Islander peak bodies.

Implementation

The Taskforce is aware that previous efforts to establish an independent industry-wide domestic and family violence peak body met with challenges. As part of the *Building a Stronger Domestic and Family Violence Service System in Queensland* initiative undertaken in 2016, an advisory group with representatives from domestic and family violence self-titled peak bodies, alliances and networks was convened to provide advice and share information. The advisory group proposed several future actions for consideration, including strengthening the role of peak organisations. However, difficulties with the development of a suitable business case prevented the funding of a peak body at that time.[69]

The Taskforce has been advised that DJAG is currently working with both domestic and family violence networks and sexual violence networks to discuss and negotiate options to create a single integrated peak body across both service systems.[70]

Peak bodies for the domestic and family violence service system in other jurisdictions are typically delivered by non-government organisations. While the establishment of a peak body could be viewed by some as controversial, it is not intended by the Taskforce to detract from or reduce the

independent advocacy undertaken by individual service providers or existing peaks and networks. Rather, the Taskforce intends this step to reflect the growth in scope and scale of the service system and the need for independent support to continuously improve the service system with a view to the longer term.

When establishing the peak body, the roles of existing Aboriginal and Torres Strait Islander peak organisations[71] must be respected and taken into account. The Taskforce acknowledges the important work of these peak organisations in working to implement targets under the *National Agreement on Closing the Gap*, which include reducing the rate of all forms of family violence and abuse against Aboriginal and Torres Strait Islander women and children.[72]

Stable, long-term funding for an integrated peak should be provided, following an open procurement process, to enable sufficient time for service system development, support the implementation of coercive control reforms, and provide certainty.

In consideration of the practice and success of peak bodies in other jurisdictions, the Taskforce has laid out a set of functions for an integrated peak body within its recommendation.

Human rights considerations

Supporting the establishment of an integrated peak body for domestic and family violence services promotes several human rights under the Human Rights Act. Promoting and supporting implementation of legislative reforms against coercive control and supporting service provider education and consistent practice will protect the right to personal security (section 29) by improving responses to, and community recognition of, coercive control. Creating an integrated peak body will also promote the right to recognition and equality before the law by supporting a broad range of services across the state to provide consistent high-quality services for a diverse range of clients (section 15).

Conversely, funding a single integrated peak body may also risk limiting the right to recognition and equality before the law (section 15). The right to equality ensures that all laws and policies are applied equally and do not have a discriminatory effect.[73] This potential limitation will arise if the 'centralised' nature of the funded peak body results in particular groups or populations in Queensland being under-represented and therefore experiencing discrimination and exclusion from the benefits of accessing services across the service system. The Taskforce considers that these limitations would be mitigated by ensuring the peak body has sufficient membership of, or partnerships with, Aboriginal and Torres Strait Islander services, services across Queensland in regional and remote locations, services for people with disability, services for LGBTIQA+ people, and services for young people and older people.

Evaluation

It is important that the effectiveness of an integrated peak body is monitored and evaluated over time achieving the desired outcomes of a more integrated, coordinated, and capable service system. The establishment of the peak body should involve setting and monitoring clear deliverables within the contract for service.

A body with a distinctly different role from frontline services will require different evaluation criteria. Measurements of success should consider the output of the peak, whether leadership has achieved significant improvements in system coordination and capability, and the attitudes of member and non-member organisations to the peak body. Objectively, the success of a funded peak body will be evidenced by its state-wide and national acceptance and recognition as a representative voice for domestic and family violence services in Queensland.

A Commissioner for Domestic, Family and Sexual Violence

Another option for improving service system capability and coordination suggested to the Taskforce was to establish a Commissioner for Domestic, Family and Sexual Violence.[74] In its submission to the Taskforce, the Gold Coast Centre Against Sexual Violence recommended the establishment of such a Commission as an independent touch point for systemic issues and a voice for victim/survivors:

> There is no central body providing oversight or management of complaints so currently it is up to the traumatised victim/survivor to negotiate with multiple individuals and systems. To streamline issues and complaints we believe a role such as a Domestic, Family and Sexual Violence Commissioner, similar to the UK model, would be invaluable as a central touch point. The Commissioner could be an independent voice for victim/survivors and provide support and early intervention when system responses fail — which could potentially save lives.[75]

England and Wales have recently established a Domestic Abuse Commissioner to provide an independent voice that can speak on behalf of victims and survivors. There are strong arguments for the establishment of a statutory body with powers to receive and respond to complaints by victims of crime, including victims of domestic and family violence or sexual violence. The Taskforce will consider this issue further as part of its second stage of work.

Improving integration of service system responses

The Taskforce has heard that multi-agency responses, including integrated service responses and High Risk Teams are working well, and this way of working should be further embedded and rolled out across the state.

There are some limitations in the current approach, however. For example, there is need for:

- improved knowledge and understanding within the agencies represented on High Risk Teams
- additional agency participation, and
- consistent practice in the operation of High Risk Teams.

Risk assessment practices are not consistent across agencies. This inconsistency has implications for service system integration and joint safety planning, effective referral processes and ultimately, victim safety.

Agencies participating in integrated service responses do not have a shared understanding and awareness of coercive control and the associated risk to a victim's safety. Information sharing practices and culture are inconsistent between agencies, and uncertainty about what information can be shared, with whom, and for what purpose is undermining effective information sharing between agencies.

Expanding integrated service responses and High Risk Teams

Collaborative and integrated service responses support a common approach and shared understanding and represent an effective mechanism for ensuring holistic responses are provided to

meet victims' needs. The Queensland Government introduced an integrated service response model in 2017 following the *Not Now, Not Ever* report.

This model involves government and non-government agencies and community groups working collaboratively under agreed guidelines and a shared understanding of assessing risk to provide agreed responses to action plans for keeping victims and their children safe.[76]

In addition, High Risk Teams have been established across eight locations in Queensland. These teams aim to bring together relevant government and non-government agencies to share information to identify cases where there is a high safety risk for the victim. The role of the teams and the nature of Queensland's integrated services response is outlined in chapter 1.2.

In 2020, the Queensland Government developed a multi-agency work plan[77] outlining how key suggestions from the evaluation of integrated service responses and High Risk Teams[78] will be implemented by partner agencies and funded specialist domestic and family violence services, and, where applicable, other relevant non-government service providers.[79]

While it was apparent to the Taskforce that the model has been successful in establishing effective working relationships between participating individuals and a better understanding of each other's roles and responsibilities, many of the issues identified in the 2019 evaluation appear to be ongoing.

Issues for integrated service responses and High Risk Teams identified in chapter 1.2 include:

- limited cultural capability and trauma awareness across High Risk Team members and their agencies
- challenges responding to victims with complex needs
- inconsistent information sharing practices.

Noting the existing commitment to address these issues, the Taskforce recommends the continued rollout of Integrated Service System Responses and High Risk Teams.

Recommendation 18

The Queensland Government continue to roll out Integrated Service System Responses and High Risk Teams in additional locations. Further rollout of these responses will build upon the lessons learned to date and will be informed by the outcome of the evaluation undertaken in 2019 and any developing evidence base.

High Risk Teams will better connect with each other to assess risks and provide responses to individuals who move from one area to another and to share information and lessons learned.

Implementation

Improving integrated service response approaches across the state is not limited to the roll out of formal arrangements or the establishment of High Risk Teams. The key elements of this way of working that contribute to their success should be embedded across the service system as part of 'business as usual'.

Relying on individual staff members participating in Integrated Service System Responses or High Risk Teams to deliver plans for victims and perpetrators whose cases are discussed through these processes is unrealistic. Expecting individual agency representatives to take lessons learned through their participation in integrated responses to their agencies to build understanding may also be unrealistic.

For example, agency representatives told the Taskforce that while they see benefit in the multi-agency assessment and planning discussions held at High Risk Team meetings, they sometimes struggle to convince other staff within their agencies to agree to the outcomes.[80] The Taskforce also heard that these teams often fail to identify cases as involving Aboriginal and Torres Strait Islander persons or to consider (as part of the assessment or planning process) the cultural issues that might be impacting on a case.

Entire organisations must participate in supporting integrated service responses to ensure services are culturally capable and that domestic and family violence and coercive control literacy is achieved across the board.

Despite the challenges identified in this section, Taskforce consultation indicated widespread support for the continued rollout of Integrated Service System Responses and High Risk Teams. The Taskforce believes that these responses should continue to be rolled-out in a way that is responsive to the recommendations of this Taskforce and the outcome of the 2019 evaluation. Noting that there is room for improvement, the integrated service response model should continue to develop and be strengthened as evidence grows.

In continuing to roll out Integrated Service Responses and High Risk Teams, a focus on collaboration and sharing of ideas and learnings across these responses should be embedded. The Taskforce heard that High Risk Teams were operating in isolation from one another. There would be benefit in the teams sharing information about what works and what can be improved.[81] A community of practice across these responses focused on shared learnings and improvements would be beneficial.

Human Rights considerations

Integrated service responses, where effective, provide holistic assessment and safety responses to victims. Expanding and strengthening these responses will promote the personal rights engaged when domestic and family violence is prevented, responded to early, and victims are kept safe. This includes the right to life (section 16), the right to liberty and security of person (section 29), and the right to protection of families and children (section 26). Other rights, including the right to education (section 36) and the right to health services (section 37), are protected when victims and their children receive the holistic services intended through the establishment of integrated service responses.

Ensuring that Integrated Service System Responses and High Risk Teams are identifying and responding appropriately to cases involving Aboriginal and Torres Strait Islander victims and perpetrators will promote the right to recognition and equality before the law (section 15), and the cultural rights of those individuals (sections 27 and 28).

Expanding and improving integrated service responses is not expected to limit any human rights.

Evaluation

Continued monitoring and evaluation of integrated service responses is essential to measure outcomes and effective delivery of services for victims. Service collaboration should be measured and monitored through improved coordination and oversight to assess whether it is improving over time. The ongoing rollout of Integrated Service System Responses and High Risk Teams should incorporate a flexible approach and lessons learned as it progresses. Successful elements of this way of working should be identified and embedded across the state as ‘business as usual’.

The Queensland Government’s multi-agency work plan from the evaluation of Integrated Service System Responses and High Risk Teams should include improving the cultural capability of agency representatives participating in integrated responses as well as requiring Special Project Officers to

provide input in relation to referrals that relate to an Aboriginal or Torres Strait Islander person. Special Project Officers should also have access to case-related information to enable them to provide this input. Monitoring and evaluation is discussed further in chapter 4.1.

The role of health services in an integrated service response

Professionals working in mental health and the drug and alcohol service system need to understand the nature and impact of domestic and family violence so that they can identify and respond to issues disclosed by their clients. They also need to know where to refer a client they suspect is either a victim or a perpetrator of domestic and family violence so that they can access specialist services and support.[82] There is also a need for domestic and family violence services to better understand mental illness and drug and alcohol misuse so they can refer their clients to the help they need. Mental health and drug and alcohol services offered by the Queensland Government are limited and many people will seek treatment from a professional in private practice.

Victims of domestic and family violence, including coercive control, are at an increased risk of experiencing mental ill-health or misusing drugs and alcohol. The Taskforce has heard from victims that the abuse they experience has resulted in post-traumatic stress disorder. The Taskforce has also heard about perpetrators threatening to disclose a victim's drug and alcohol use as a tactic of abuse.

Perpetrators may also experience mental ill-health or misuse drugs and alcohol. The Taskforce has heard from victims and the literature that perpetrators threatening suicide is a very common tactic of coercive control.[83]

Recent coronial inquests in Queensland have highlighted the importance of treating doctors understanding and responding to domestic and family violence when it is disclosed to them by their patients.[84]These disclosures are a critical opportunity for intervention to help protect victims. These opportunities can be missed if health practitioners take what their patients are saying on face value and don't understand the risks.

Recommendation 2 of the 2019–20 annual report of the DFVDRAB recommended the Queensland Government consider, as a matter of priority, how domestic and family violence training can be delivered to all frontline Queensland Health workers to effectively and sustainably build and maintain domestic and family violence literacy across the secondary and tertiary healthcare systems.[85] The Queensland Government accepted this recommendation noting that Queensland Health was already rolling out the Domestic and Family Violence Specialist Health Workforce Program across the state. It noted that the program aimed to build capacity within Hospitals and Health Services to respond safely and appropriately to domestic and family violence suspicions and disclosures and would be externally evaluated and supported by a Central Coordinator and a Community of Practice.[86]

Recommendation 3 of the same report was that the Queensland Government, as a matter of priority, review and enhance domestic and family violence training and resources to ensure that all frontline Queensland Health workers, particularly those in the areas of sexual health, mental health and alcohol and other drug services, understand domestic and family violence perpetrator tactics, complex trauma presentations, and the link between suicidality and experiences of domestic and family violence.[87]

The Queensland Government also accepted this recommendation, committing that Queensland Health would review and update its Domestic and Family Violence Toolkit of training resources to include information to support understanding of perpetrator tactics, the impacts of relational trauma, and the links between suicidality and experiences of domestic and family violence.[88] At the time of the response, the government committed that during 2021–22 and 2022–23, Hospitals and Health Services would prioritise the delivery of the Domestic and Family Violence Toolkit of training resources to the frontline workforce within their sexual health, mental health and alcohol and drug services.[89]

In its 2020–21 annual report, the DFVDRAB[90] recommended trialling and evaluating the use of the Domestic and Family Violence Capability Assessment Tool for Alcohol and Other Drug Settings in alcohol and other drug treatment and harm reduction services in multiple trial sites across Queensland. The tool is designed to assist alcohol and other drug services to assess their current responses to clients who are perpetrators or victims of domestic and family violence and future plans for improvements.[91] The Taskforce supports the recommendations made by the DFVDRAB in these two annual reports and urges they be implemented without delay.

During a High Risk Team meeting that the Taskforce attended, members commented that mental health and drug and alcohol services were not sufficiently connected to the integrated service response in the region. The Department of Health representative who did participate came from a hospital and had limited influence over other health services.[92] Given the prevalence of mental ill-health and drug and alcohol misuses for both victims and perpetrators and the need for supports to be part of a safety plan for high-risk offenders, the Taskforce sees benefits in these parts of the service system being connected with and actively participating in Integrated Service System Responses and High Risk Teams.

Recommendation 19

The Department of Health and each Hospital and Health Service ensure that health, drug and alcohol and mental health services each play an active role in Integrated Service System Responses and High Risk Teams.

Drug and alcohol and mental health services will better recognise and respond to domestic and family violence as a pattern of behaviour over time in the context of a relationship as a whole. Drug and alcohol and mental health services will meet the needs of an individual patient or client as a member of a family and as a parent. Services and professionals will be confident to refer and support clients and patients to specialist domestic and family violence services and supports and perpetrator programs.

The Taskforce notes and supports recommendations 2 and 3 of the Domestic and Family Violence Death Review and Advisory Board in its Annual Report 2019-20 about reviewing and enhancing domestic and family violence training and resources and ensuring that all frontline Queensland Health workers understand domestic and family violence perpetrator tactics, complex trauma presentations, and the link between suicidality and experiences of domestic and family violence.

The Taskforce notes and supports recommendation 4 of the Domestic and Family Violence Death Review and Advisory Board in its 2020-21 Annual Report about trialling and evaluating the use of the Domestic and Family Violence Capability Assessment Tool for Alcohol and Other Drug Settings in alcohol and other drug treatment and harm reduction services in multiple trial sites across Queensland.

The Queensland Government should implement these recommendations of the Domestic and Family Violence Death Review and Advisory Board urgently.

Implementation

Expanding the role of health, drug and alcohol and mental health services in integrated service responses should occur as a matter of priority early in the recommended four-phase implementation plan. Coordination of these services with perpetrator programs under the expanded framework outlined in chapter 3.4 will also help ensure that services are working together to support the rehabilitation of perpetrators.

The Safe and Together Addressing ComplexitY (STACY) model provides a useful example of assessing and responding to the risk of harm for children in the context of drug and alcohol and mental health issues. STACY is a multidisciplinary and inter-agency collaborative approach that takes an all-of-family perspective to responding to domestic and family violence.[93] Under this model, the focus is shifted from addressing issues at an individual level (for example, a victim's mental health) to putting into context how the perpetrator's behaviours impact on the victim's behaviour and children exposed to violence and abuse.

This approach assesses risk holistically. A key feature of STACY is partnering with victims, including children, while keeping the offender in view. This includes partnering with women to 'affirm their experiences; asking respectful, culturally-informed, questions; assessing safety and wellbeing; validating their feelings and concerns; and collaborating with survivors'.[94] In terms of working with men it involves 'increasing the visibility of fathers who use violence and coercive control (specifically, their patterns of behaviour); developing practices that hold men accountable for their use of violence and coercive control, irrespective of factors that increase the complexity of their lives; and engaging men who use violence and coercive control within a context of complexity'.[95] The model also increased the focus on children by 'keeping children and young people visible and heard; connecting the dots between the perpetrator's pattern of DFV, including substance misuse and/or [mental health] issues and the impacts on children and young people; and validating and supporting children and young people.[96]

Human Rights considerations

Ensuring that health, drug and alcohol, and mental health services play an active role in integrated service system responses and are able to better recognise and respond to domestic and family violence will promote several human rights. The right to health services (section 37) provides that every person has the right to access health services without discrimination. Ensuring both victims and perpetrators with mental health and drug and alcohol misuse receive effective support from these services as an essential part of integrated service responses will promote this right along with recognition and equality before the law (section 15). The protective impact of these services on victims will also promote the personal rights protected when further domestic and family violence is prevented, as outlined above.

Evaluation

An expanded role for health, drug and alcohol, and mental health services should be incorporated into the Queensland Government's multi-agency work plan from the evaluation of Integrated Service System Responses and High Risk Teams. Whether these services have been effectively incorporated into integrated service responses should continue to be evaluated under this framework and under the monitoring and evaluation framework outlined in chapter 4.1.

Improving information sharing

In chapter 1.2, the Taskforce discussed the need for more work to be done to improve understanding of information sharing within integrated service responses. The 2019 evaluation identified information sharing as a challenge for the integrated service response model and suggested clarifying and unifying approaches to information sharing between agencies.[97]

Broad information sharing provisions were inserted into the *Domestic and Family Violence Protection Act 2012* (DFVP Act) following its last review in 2016. The sharing of information is enabled between particular government and non-government agencies for specific purposes. The provisions in Part 5A of the DFVP Act enable particular entities, while otherwise protecting the confidentiality of the information, to share information. The purpose of information sharing is to:

- assess whether there is a serious threat to the life, health or safety of people because of domestic violence; and
- respond to serious threats to the life, health or safety of people because of domestic violence; and
- refer people who fear or experience domestic violence, or who commit domestic violence, to specialist domestic and family violence service providers.[98]

The *Domestic and Family Violence Information Sharing Guidelines*[99] were released in May 2017 to support implementation of the information sharing provisions in the DFVP Act. They are accompanied by a video.[100] There appears not to be widespread knowledge about and use of the guidelines.

Challenges to information sharing were also considered by the DFVDRAB in its 2019–20 annual report (recommendation 5). The DFVDRAB found that existing information sharing provisions in Part 5A of the DFVP Act appeared to be underutilised by services.[101] The DFVDRAB recommended that the Queensland Government increase the awareness and consistent use of the provisions by all agencies empowered to share or receive information under the Act. The DFVDRAB recommended four actions to achieve this, including that prescribed entities have internal guidelines and that government develop standardised processes and procedures, supported by relevant training, that can be provided to non-government organisations for adoption.[102]

The Queensland Government accepted the DFVDRAB recommendation and work has already begun to address issues with information sharing identified in the 2019 evaluation and the DFVDRAB 2019–20 annual report. The Queensland Government has reported that it is ensuring services and agencies involved in integrated service responses align their information sharing responses and promote consistent state-wide practices. This includes the integrated service response multi-agency work plan,[103] which will strengthen the implementation and application of the domestic and family violence information sharing provisions among government and non-government agencies that can share information under the DFVP Act.[104] DJAG also intends to develop standard template processes and procedures to share with prescribed agencies.[105]

While the Taskforce supports the implementation of existing recommendations and acknowledges the work underway, the lack of understanding and inconsistent use of information sharing is hampering the success of services and agencies working together in an integrated way to keep victims safe.

The Taskforce has also heard that more should be done to enable information to be shared by agencies and services about a perpetrator who is participating in an intervention program. This will allow the program itself to assess the risk of safety to a victim and respond as part of the program.[106]

Recommendation 20

The Department of Justice and Attorney-General review the Domestic and Family Violence Information Sharing Guidelines to ensure they provide a plain English and easy to use guide for agencies involved in Integrated Service System Responses and High Risk Teams and support integrated approaches between agencies and services across the state.

The department will promote awareness and support implementation of the guidelines to improve information sharing across government and non-government agencies involved in the provision of domestic and family violence services.

The Taskforce notes and supports recommendation 5 of the Domestic and Family Violence Death Review and Advisory Board in its 2019-2020 Annual Report that the Queensland Government increase the awareness and consistent use of the existing information sharing provisions in the *Domestic and Family Violence Protection Act 2012* by all agencies empowered to share or receive information under the Act.

The Queensland Government should implement the recommendation of the Domestic and Family Violence Death Review and Advisory Board urgently.

Implementation

In consultation with the privacy commissioner, the *Domestic and Family Violence Information Sharing Guidelines* should be reviewed and updated to ensure they include guidance about sharing information in relation to domestic and family violence involving patterned behaviour over time and in the context of a relationship as a whole. This review should involve consultation with the agencies and services who can share information under the DFVP Act and who would benefit from using the guidelines.

DJAG should promote the reviewed guidelines to assist their improved understanding and use.

The DFVP Act includes a statutory review clause in section 192. It has been updated after each review of the operation of the Act, first in 2012 and again in 2016. The next review is due to commence as soon as practicable after 2022. This review should include consideration of the operation of the information sharing provisions in the Act to ensure they are operating as intended.

Human rights considerations

Effective information sharing across agencies involved in integrated service responses protects the safety of victims and strengthens the potential rehabilitation of perpetrators. These impacts promote the right to life (section 16), the right to liberty and security of person (section 29), and the right to protection of families and children (section 26) by protecting the safety of victims. Where information sharing leads to enhanced service availability and well-informed service provision, the right to recognition and equality before the law (section 15) of both victims and perpetrators is promoted, along with several other rights relating to service delivery.

While supporting an increased use of information sharing provisions may limit the right to privacy and reputation of both victims and perpetrators (section 25), sharing between prescribed entities is permitted under existing legislation and will be required to meet existing safeguards.

Evaluation

The impact of effective information sharing is an important cross-cutting issue that applies to the service system broadly. The effectiveness of information sharing and its impact on responses to victims and perpetrators should be monitored and evaluated as part of the overarching monitoring and evaluation framework recommended by the Taskforce (chapter 4.1). Monitoring and evaluation should consider any unintended consequences to the privacy and safety for victims.

Consistent risk assessment and safety planning

With increasing understanding and awareness of domestic and family violence, there has been a greater appreciation of the safety risks for victims. There are multiple opportunities for these risks to be identified before violence escalates. Identification could prevent ongoing harm or even death. This report shines a light on the fact that despite the growing evidence and understanding of domestic and family violence being a pattern of behaviour, many of the agencies and services that interact with victims and perpetrators miss opportunities for intervention because domestic and family violence is conceptualised on the basis of individual incidents. This is a significant problem that cuts across the service system at every touch point for victims and perpetrators.

The Queensland Network of Alcohol and Other Drug Agencies said in its submission that:

> one of the ongoing challenges faced by services in responding to domestic and family violence is the capacity of agencies, and in particular frontline services, to recognise nuanced patterns of coercive controlling violence when the system is predominantly incident based, and crisis oriented. In this respect, legislative amendments are unlikely to be beneficial without ensuring there is a corresponding shift from an incident-based response system to one that supports effective, coordinated, and informed cross-agency responses.[107]

In its 2017–18 annual report, the DFVDRAB found agencies and services throughout Queensland were using an assortment of risk screening and assessment tools, leading to inconsistencies in risk identification and responses.[108] The Taskforce has observed that approaches to the assessment of risk continue to be fragmented across the system. During its engagement and consultation with agencies and services, the Taskforce has observed different language and explanations about risk assessment requirements and processes and a lack of consistency about what risk is, in fact, being assessed.

Since the 2017–18 DFVDRAB annual report, the Queensland Government has developed and refined a Domestic and Family Violence Common Risk and Safety Framework (CRASF).[109] The CRASF was commissioned by the former Department of Child Safety, Youth and Women and developed by Australia's National Research Organisation for Women's Safety (ANROWS) in 2017. Its key objective is to enhance the safety of victims (and their children) and hold perpetrators to account through integrated service responses that prevent the escalation and repetition of domestic and family violence.

An expected benefit of a common risk assessment approach is a shared understanding and common language and approaches to assessing risk and safety action planning.[110] However, as noted in chapter 1.2, fractured approaches to risk identification and response in the justice system and domestic and family violence service system remain an ongoing issue.

How risk is identified and responded to in one service can impact on the way an identified risk for a victim is managed in another service. For example, within the domestic and family violence service system, the Taskforce heard of services not accepting the outcomes of a risk assessment undertaken by another agency (chapter 1.2).[111] The Taskforce also observed fundamental differences in the way risk is assessed and described by specialist domestic and family violence services and by police. For example, a domestic and family violence service may assess a case to be high-risk, given the weighting of factors relating to a victim, whereas police may have information about a perpetrator's history of behaviour and offending that are weighted to arrive at the decision that other cases are of a higher risk.

These differences in opinion and perspective are related to the different roles, expertise, and access to information that agencies have. Having different assessment outcomes is useful. It should enable a robust discussion to occur when agencies come together as part of an integrated response to challenge and test each other's perspectives, resulting in a better outcome for victims. However, for this to occur, agencies and services need to know that differences in assessment outcomes relate to different perspectives and the importance of then coming together for a respectful and robust discussion. If an agency simply dismisses an outcome from a risk assessment undertaken elsewhere across the system, the benefits of a robust interagency and integrated response are lost.

The Taskforce is concerned that agencies and services have a tendency to simply refer to 'risk' in a way that assumes alignment between the different perspectives and assessments undertaken across the system. If agencies and services are using different languages, then they are at cross-purposes. This diminishes the opportunity for a proper integrated response.

A more consistent understanding about what risk is being assessed is required. While different perspectives will remain, each agency must be clear that the risk being assessed is the safety risk for the victim, taking into consideration both risk factors for the victim and the risk the perpetrator will continue to use violence and coercive controlling behaviours. An improved shared and aligned understanding of risk is required to support ongoing collaboration and coordination in managing and responding to the identified risks for the victim.

The importance of using common language was recently recognised by the DFVDRAB in its 2020–21 annual report. The Board identified a 'need for consistent terminology to be used across the service system to ensure that there is a shared understanding of domestic and family violence and coercive control'.[112] Establishing a shared language, through the framework, would be an important step in ensuring that domestic and family violence and coercive control are recognised, responded to, and assessed consistently across services and through multiple interactions.

There is emerging evidence that the Safe & Together™ model, where it is implemented holistically, leads to better outcomes for children and families living with domestic and family violence and parental issues of alcohol and drug use and mental health.[113] This model is primarily a practice approach focused on identifying and responding to the needs of children. It nevertheless provides a useful example of how the actions of a perpetrator and their patterns of behaviour can be considered and assessed alongside the effects of that behaviour on the victim and the effects on the family to determine the risk of harm.

Being clear that the risk being assessed is the safety risk for the victim — as opposed, for example, to the risk of recidivist offending by a perpetrator — and assessing that risk holistically will improve how agencies and services work together as part of an integrated response. It will also help ensure high-risk cases are identified as early as possible and will contribute to the development of agreed and proper safety plans.

Understanding violence as a patterned course of conduct will improve safety planning. Safety planning involves a dynamic response to violence, and those affected, and is an effective tool to guide service engagement with victims. To keep the victim engaged in the process, a risk assessment framework needs to promote safety planning as victim-centred and strengths-based. Safety planning acknowledges the wishes and needs of the victim, irrespective of whether the victim chooses to remain in the same household as the perpetrator, is in the process of separating, or has separated. The nature and extent of violence perpetrated is unlikely to remain static, presenting new risks and creating new obstacles that need to be reassessed and incorporated into a safety plan. For this reason, risk assessment and safety planning should be an ongoing process. What may have been considered a protective factor at one time may no longer be perceived as safe for the victim.

A risk assessment framework should acknowledge the changing nature of the safety risk for a victim. It should emphasise that risk must be continually assessed and the victim's safety plan updated.[114] Safety planning involves steps that may be followed sequentially, iteratively, or in combination.[115] Throughout the process, the victim's needs should remain central.[116]

An overarching risk assessment framework incorporating common language and approaches should enable agencies to have their own internal policies, procedures, practice guidance, and tools that are tailored to the context of their role and responsibilities and sources of information. For example, specialist domestic and family violence services that work with victims will have firsthand information from the victim about their fears and concerns and the things that they do every day to keep themselves safe. Police will have information about a perpetrator's offending history.

In chapter 1.1, the Taskforce outlined how it had heard from victims that they often experience intersecting complexities. The Taskforce has also outlined earlier in this chapter and throughout this report that perpetrators also often have multiple and complex needs. A whole-of-system risk assessment and safety planning framework must recognise and incorporate a shared understanding and approach to assessing intersectional issues and co-morbidities (such as mental health issues, homelessness, and disability). For victims, these are important factors contributing to their safety risk. For perpetrators, these factors contribute to the risk of ongoing violence and the level of that violence. The whole-of-system framework for risk assessment and safety planning should incorporate a common approach to how these issues are considered and responded to.

Recommendation 21

The Department of Justice and Attorney-General strengthen the whole-of-system approach to risk assessment and safety planning by developing a whole-of-system risk assessment framework and requiring use of risk assessment processes across all parts of the domestic and family violence service system and justice system that are consistent and aligned with this framework.

The framework will recognise and respond to patterns of all forms of domestic and family violence over time within the context of a relationship as a whole. It will require the use of consistent language and concepts to support and enable integrated responses.

The framework will include an assessment of the safety and risk of harm for the victims, including children, as well as the risk of a perpetrator continuing to use violence.

Queensland Government agencies will review and update their domestic and family violence risk assessment and screening tools and processes to consistently align with the overarching framework, based on the best available current evidence.

Implementation

The intent of the Taskforce's recommendation is to require individual agencies' internal policies and procedures, practice guidance, and tools to be consistent and aligned with the framework. This will improve the use of common language and collaborative and integrated ways of working, with better outcomes for victims and perpetrators.

The CRASF is currently being revised in response to the recommendations of an independent evaluation completed in 2019. DJAG has indicated it will undertake a validation process as part of this revision. The implementation of the Taskforce's recommendation could be incorporated as part of the revision process.

The Multi-Agency Risk Assessment and Management Framework (MARAM) used in Victoria includes definitions to support shared understanding and common language and approaches to assessing risk and safety action planning.[117]

The MARAM provides a system-wide approach to identifying, assessing, and managing family violence risk.[118] Agencies and funded services are required by legislation to align their policies, procedures, practice guidance, and tools to the MARAM framework.[119] Although consistent alignment is required, agencies may continue to use their own risk assessment tool to triage cases prior to filtering that information onto the MARAM risk framework.[120] The MARAM is a work in progress, with annual reports provided to the Victorian Government tracking implementation achievements.[121] Based on findings from the 2019–20 report, significant progress has been made implementing and embedding consistent processes, including across Victoria Police, hospital responses, and domestic and family violence services. The MARAM has also led to an increased focus on culturally competent and appropriate responses to Aboriginal and Torres Strait Islander peoples, including through greater training and advocacy.[122]

The MARAM, associated reporting, and ongoing review process provide useful insight into the development of an overarching framework in Queensland.

Human rights considerations

Improving the consistency of risk assessment processes by requiring alignment with an overarching framework will improve the assessment of the safety risk of victims and the development and implementation of an integrated and coordinated plan to address the risk. This will promote many rights under the Human Rights Act, such as the personal rights engaged when domestic and family violence is prevented, responded to early, and victims are kept safe. This includes the right to life (section 16), the right to liberty and security of person (section 29), and the right to protection of families and children (section 26).

Risk assessment processes potentially limit the right to privacy (section 25). The right to privacy can be limited where reasonably and demonstrably justified. Under the current provisions, sharing information where a significant threat of domestic and family violence exists is likely to be sufficient justification for the limitation in most circumstances. However, any expansion of these mechanisms should endeavour to include appropriate safeguards, such as seeking consent in accordance with the requirements of the DFVP Act.

Evaluation

An overarching risk assessment framework and individual agencies' internal policies and procedures, practice guidance and tools should be regularly reviewed and updated to incorporate any developing evidence base. The framework and agency tools require regular revision and validation to prevent perverse outcomes.

As discussed further in chapter 3.5, risk assessment tools should be operationalised to support the proper exercise of professional judgement. Any review and evaluation of the outcomes achieved as a result of the framework and individual agencies' internal policies and procedures, practice guidance and tools should take into consideration this issue and be focused on outcomes achieved for victims and perpetrators.

Child protection and family support services

As noted in chapter 1.1, exposure to domestic and family violence is specifically defined in the DFVP Act as including when a child sees, hears or otherwise experiences the effects of domestic and family violence.[123] The DFVP Act enables children to be named on Domestic Violence Orders to protect them from exposure to domestic and family violence.[124] This definition recognises that harm[125] can be caused to a child through exposure to domestic and family violence broadly, in addition to the child being the victim of physical violence.

Recognition of the impact of domestic and family violence on children is a relatively new phenomenon. The 2016 ABS Personal Safety Survey on Partner Violence found women living in single-parent households were more likely to be victims of domestic and family violence compared with other household types.[126] There is a growing understanding within the child protection and family support system that perpetrators need to be visible and held accountable while agencies and services should partner with victims to support them to keep their children safe.

The Taskforce also notes that children and young people sometimes perpetrate violence or abuse against their mothers and siblings. The importance of intervening early with children who perpetrate domestic and family violence through appropriate programs is discussed further in chapter 3.4. There is also a need for appropriate family support services for families impacted by this behaviour.

The Taskforce has heard as a consistent theme raised by stakeholders and victims that one of the barriers to victims of domestic and family violence seeking help is the fear that a mandatory report will be triggered and Child Safety Services will become involved to remove their children. For First Nations peoples, who are significantly over-represented in the child protection system, this fear is understandable. If this perception prevails, victims will continue to be reluctant to seek the help and support they need to stay safe, and perpetrators will not be held accountable to stop the violence.

The Department of Children, Youth Justice and Multicultural Affairs (DCYJMA) is in the process of implementing new practice approaches and tools within Child Safety Services as part of the Safe and Together Model to assist its child protection staff to work with families to keep their children safe. The Taskforce makes no findings or comments on the benefits and outcomes achieved. However, the Taskforce has heard from domestic and family violence stakeholders and the broader community that where this new practice approach and tools have been fully implemented, improved responses have been observed.

The Taskforce recommends that DCYJMA continue to implement and embed a practice framework and tools for its child protection staff that supports a victim of domestic and family violence to care protectively for their children and to hold perpetrators accountable to stop the violence. The approach being implemented within the department should be reviewed in light of this report to ensure it adequately covers domestic and family violence as a pattern of behaviour over time in the context of a relationship as a whole.

The DCYJMA should do more to build trust and demonstrate partnership with families and communities, including First Nations peoples, to ensure a fear of Child Safety involvement does not continue to present a barrier to victims seeking help and support.

Recommendation 22

The Department of Children, Youth Justice and Multicultural Affairs continue to implement and embed a practice framework and tools that support Child Safety staff to work in partnership to support a victim of domestic and family violence to care protectively for their children, and to hold perpetrators accountable to stop the violence, including by providing ongoing training to staff.

The practice framework and tools will be reviewed to ensure that they recognise and respond to coercive control and patterns of violence over time in the context of a relationship as a whole and that they are based on current evidence.

The department will proactively work to remove barriers to victims seeking help and support that relate to fears that children will be removed from a protective parent, including building trust and demonstrating partnership with families and communities and fully implementing the practice approach and tools.

Implementation

The Taskforce has heard that where the new practice approach and tools have been properly implemented, stakeholders have observed improved practice. Ongoing implementation is required to embed this approach across the state, including in regional and remote communities.

The DCYJMA should continue to work with Aboriginal and Torres Strait Islander peoples, including those involved in the child protection system, to ensure the approach and tools adequately reflect and respond to their experiences of domestic and family violence.

Consideration should be given to developing and implementing practice approaches and tools across the family support system funded by DCYJMA. This would support and enable integrated service responses across services that support vulnerable families and specialist domestic and family violence services.

The approach and tools should be reviewed to ensure they adequately address coercive control and are consistently aligned with the overarching training and education and change management framework recommended in this report.

The successful implementation of the new approach and tools will assist to build trust and demonstrate commitment to working differently, including with First Nations families. The DCYJMA should do more to remove barriers to victims seeking help and support due to fears that their children will be removed.

Human rights considerations

Domestic and family violence and coercive control lead to significant infringement upon the human rights of victims and their children. This includes breaching the victim's right to life (section 16), protection from torture, cruel, inhuman or degrading treatment (section 17) and right to security of person (section 29). As demonstrated in chapter 1.1, coercive control can also limit a victim's freedom of movement (section 19); force a victim to undertake acts amounting to slavery or servitude (section 18); interfere with freedom of expression (section 21); and limit a victim's right to freedom of thought, conscience, religion or belief (section 20), rights to property (section 24), rights to privacy and reputation (section 25) and right to the protection of children and families (section 26).

While every child has the right to the protection that they need and is in their best interests (section 26), the child protection system's failure to protect victims and hold perpetrators accountable, the perceived discrimination of some sections of the Queensland community, and ongoing systems abuse, all limit human rights that provide recognition and equality before the law (section 15).

Fully implementing and embedding practice approaches and tools across the family support and child protection system will promote compatibility with human rights.

Evaluation

The DCYJMA domestic and family violence practice approach and tools should be independently evaluated to measure and monitor outcomes for victims, their children, and perpetrators. This evaluation should include consideration of efforts to remove perceptions and fears of child removal as a barrier to victims seeking help and support.

Evaluation outcomes should inform the review and ongoing implementation of the practice approach and tools.

Training and education across the justice and service system

The response to the nature and impact of coercive control must be strengthened across the domestic and family violence and criminal justice systems to better recognise and respond to patterns of violence over time in the context of a relationship as a whole.

Although training has been rolled out across the domestic and family violence system and to mainstream services in response to the *Not Now, Not Ever* report, it needs to be ongoing to embed key learnings in practice and update information as the evidence base develops.

More needs to be done to increase awareness and understanding of coercive control, including how to identify to respond to patterns of abuse. It is important that training and information provided to professionals working across the service system and the justice system is consistent to enable a shared language and approach, and to support integrated and coordinated responses.

The need for consistency and alignment

In chapter 1.1 and throughout this report, the Taskforce has made a strong and compelling argument for responses to domestic and family violence across the justice and service systems to better recognise and respond to coercive control by identifying patterns of behaviour, including non-physical violence, over time in the context of a relationship as a whole. The Taskforce received an overwhelming number of examples in the submissions of the current lack of awareness and understanding and of limited capability and capacity across justice and service systems to properly respond to coercive control, with significant and often catastrophic impacts for victims.[127] Similar findings can also be found in domestic violence literature.[128]

Submissions from victims, organisations, and stakeholders who attended consultation forums or met with the Taskforce have called for strengthened training and education for all people coming into contact with victims, their children, and perpetrators.[129] A strong theme has been the need for change to shift away from the current incident-based approach and understanding of domestic and family violence to greater acknowledgement of its gendered nature.[130]

This blind spot across the system places individuals at increased and prolonged risk of harm. Irrespective of whether the Queensland Government progresses legislative changes against coercive control to address these limitations to the current system, there must be a significant shift in focus across the justice and service system to consider patterns of behaviour, the intersectional nature of vulnerability, cultural capability, and viewing the relationship as a whole.

In its submission to the Taskforce, ANROWS recommended that education and training must be provided to:

> police and all legal actors to understand domestic and family violence as involving patterns of behaviour which occur within the context of coercive control. …
>
> funding and facilitation of strong cross-sector collaboration [is] required to provide ongoing and regular updated support and training to help police and courts to respond to the nuances of coercive control…along with cross-sector consultation with diverse groups of women and the service providers they engage with.[131]

This position was widely supported throughout submissions and during consultation forums and meetings and has also been most recently confirmed by the DFVDRAB in its 2020–21 annual report.[132]

Attempts have been made to establish consistency across some justice and service systems through developing and implementing the *Domestic and Family Violence CRASF* (discussed above).[133] This framework has supported training and education undertaken to date, but it is important that there is more done to ensure a common understanding and consistent language across the justice and service systems.

An overarching evidence-based and trauma-informed framework to support consistent training and education across all parts of the domestic and family violence and justice system is required. This framework should be reviewed and updated as the evidence base further develops and as best practice approaches emerge.

The Taskforce is not recommending that training and education or change management programs be developed and delivered by a single agency. Agencies and services should develop and implement training and education and change management approaches tailored to meet the needs of their workforce and to reflect and incorporate the needs of the agency's individual roles and responsibilities. However, training and education developed and delivered by agencies across government and the non-government service system should be consistent and align with this framework to ensure common approaches and language are adopted and programs remain up to date.

The framework should incorporate plain English information about relevant laws and legal processes to help service providers support clients who are participating in the legal system, including as a witness. It should also include information about the service system to assist legal practitioners to understand how the system works and where to refer their clients, who may be victims or perpetrators of domestic and family violence.

The education and training framework should align with the recommended risk and safety planning framework so the two work together to support improved integrated and coordinated service responses. It will provide a single 'point of truth' about the key concepts related to domestic and family violence, language, systemic-level data, and information.

The Taskforce has observed that the tactics used by perpetrators change as new technology becomes available and as legislation changes. Accordingly, the overarching framework should be regularly reviewed and updated to incorporate information about emerging trends. This information may come from specialist domestic and family violence services, the recommended peak body, or people with lived experience. It should also provide a framework to improve understanding of how perpetrators can manipulate the people whom they come into contact with and how the behaviour or response of a service provider or professional can collude with or condone the violence and abuse.

As noted throughout this report, there are gaps in training across all areas of Queensland. These gaps are exacerbated in rural, regional, and remote locations.[134] The framework should provide guidance about the appropriate options for accessible training in regional and remote locations — for example, government agencies and local services accessing training at the same time, either face to face or online, to enable state-wide coverage.

The framework should guide and support implementation of recommendations throughout this report that require training about the nature and impact of domestic and family violence, and the relevant laws and legal procedure. This includes training for services that deliver perpetrator programs, police, and domestic and family violence practitioners,[135] and incidental support services such as mental health practitioners.[136]

Developing and implementing a consistent, evidence-based and trauma-informed training and education framework, which is accessible to all services that may come into contact with victims, their children or perpetrators, would strengthen the whole-of-service response to coercive control.

Training alone is not enough

Some argue that training designed to increase understanding of a topic is insufficient to change practice alone.[137] Training to enhance capability must be complemented by motivation and opportunity delivered through organisational, structural, and cultural change.[138]

In the United Kingdom, Her Majesty's Inspector of the Constabulary has argued that police need to have the right tools, resources, training, and partnerships to do their job well.[139] This includes a proper understanding of domestic violence and the harm it causes to victims and their children.[140] Support services in Ireland have also called for greater funding and resourcing to enable police, justice, and service systems to better recognise and respond to coercive control.[141] This must be accompanied by significant investment in long-term cultural change across the community, justice, and service systems.[142]

Professionals working across the justice and service systems must be proficient in supporting victims through the process of help-seeking. They must be able to recognise the ongoing impact of harm to victims when those from whom help is sought fail to adequately respond to coercive control. This must include greater acknowledgement of the fear that victims experience and the long-term harm to children. As explained in the literature:

> [for victims] … a major contributing factor is fear: fear of their partner, fear of the system and fear of what they might lose by exposing themselves to the criminal justice process … Responding to these concerns is not solely about training (criminal justice) professionals to respond more appropriately to women living with violence, though without a doubt, more could be done in this respect.[143]

The justice and service systems must be supported to identify and address patterns of violence over time. For this to be realised, a real and significant shift in the way domestic violence is viewed must occur. This shift would move justice and service systems from a 'violence model' that views domestic violence as single incidents to one that recognises the patterned nature of abuse over time and the insidious nature of coercive control.[144] Such a shift in practice and approach will require more than training alone. It will require agencies to develop and implement consistent and aligned strategies to manage change.

It is clear from a review of current practice across the world that without adequate funding, resources, and a commitment to transformational change across the community (including the justice and service systems), people will continue to be subjected to one of the most insidious crimes in society.[145]

Numerous Taskforce submissions have called for meaningful action to address coercive control in Queensland.[146] This action must move away from traditional one-off initiatives or tokenistic actions towards long-term, transformational change, which can only be achieved through cultural and attitudinal reforms across education, justice, and service systems.[147] All Queenslanders receiving government services (health, education, justice) should have access to information, training and education, and to officers within agencies who can recognise and respond appropriately to coercive control:

> Legislative change cannot on its own transform the culture of response to [domestic and family violence] within and around the legal system.[148]

For this to be achieved, there must be extensive consultation with domestic, family and sexual violence specialists, experts in perpetrator behaviour change and people with lived experience. From this consultation, relevant, accessible, and ongoing training must be developed and delivered across the justice and service systems. This training and education must be consistent and align with the education and training framework to be developed by DJAG, as outlined above.

The framework and the common risk and safety framework also recommended by the Taskforce should work together to ensure high-level knowledge and competency across the justice and service systems. This will reinforce the use of common approaches and consistent language, and ensure a shared understanding and awareness of the nature and impact of domestic violence and coercive control.

Intersectional vulnerabilities that must be addressed are:

- drug and alcohol misuse
- the impacts of mental health on domestic violence perpetration and victimisation
- the impact domestic violence has on mental wellbeing.

This will be achieved through ongoing development and delivery of education and training grounded in the education and training framework and delivered across the justice and service systems, including general and community services.

Preparing for and implementing legislative change

Training and education will also need to focus on supporting the implementation of legislative reforms. The successes experienced as part of the implementation process in Scotland demonstrates the importance of training and education for ensuring legislative amendments have the desired effect and agencies can identify and respond to domestic violence.[149]

In Scotland, police, courts, and other relevant services underwent extensive training on coercive control before the new legislation commenced.[150] A broad and long-term community awareness campaign was also undertaken to increase knowledge of coercive control, the behaviours involved, and support services available.[151] According to reports, 96% of reported charges based on the *Domestic Abuse (Scotland) Act 2018* were proceeded against.[152] A further 79% of prosecutions resulted in a conviction, including 85% for a *Domestic Abuse (Scotland) Act 2018* offence, and 96% of convictions were the result of guilty pleas without trial.[153]

In contrast, in England and Wales and in Tasmania there was limited training or public awareness-raising before the legislation commenced.[154] This resulted in significantly fewer charges laid in England and Wales, whilst in Tasmania no-one was charged with an offence under the relevant legislation in the first three years of it commencing.[155] Training and education will contribute to strengthened responses across the justice and service systems to help reduce violence, keep victims safe, and prevent criminal behaviour.

Training and education delivered in Scotland focused on the dynamics of domestic and family violence with modules on:

- gender and stages of coercive control
- perpetrator tactics
- why victims have difficulties leaving the relationship.[156]

The training also covered legislation and evidence gathering, realities of domestic violence through the eyes of victims and children, and case studies.[157] It also covered responses to domestic violence through use of body-worn camera footage and the importance of language and communication.[158] See Annexure A at the end of this chapter for further information about training on coercive control offences in other jurisdictions.

To address coercive control effectively in Queensland, training must, at a minimum, consider incorporating the above components from the Scottish model, as well as content specific to the experiences of Aboriginal and Torres Strait Islander peoples, people with disability, people from CALD backgrounds, and LGBTIQA+ people.

Training and education should aim to explore existing cultural and attitudinal beliefs across the justice and service systems to identify areas that impact effective and appropriate responses to victims of coercive control. It should also strive to embed consistent approaches to responding to coercive control, including supporting the development of complementary policies and procedures across the justice and service systems. Training and education within a single education and training framework should aim to strengthen integration and collaboration of services by incorporating a section on the roles and responsibilities of the justice and service systems, potential areas for collaboration, and how services can interact and support one another in responding to coercive control.

There must also be strong Queensland Government backing. The Taskforce heard:

> The effective implementation of a new coercive control offence will be largely dependent on the willingness of the Queensland government to whole-heartedly embrace this reform and resource it appropriately. This will not be a cheap endeavour in the short-term. But the investment in doing this right is not only a moral obligation, but a financially sound one.[159]

Prior to commencement of legislative provisions to respond to coercive control, there must be significant and immediate steps taken to raise community awareness of coercive control in Queensland. The Taskforce has discussed this and made recommendations in chapter 3.1.

A key component of the recommended four-phase implementation plan is the delivery of training and education for police, courts, and the service system. This training must enhance organisational capability and capacity to recognise and respond to coercive control and patterned forms of abuse. Chapters 3.5, 3.6 and 3.7 include additional recommendations about training and education for police, legal practitioners and judicial officers, and court staff to support understanding and expertise across the justice system and support the implementation of legislative reforms.

Recommendation 23

The Department of Justice and Attorney-General develop a consistent evidence-based and trauma-informed framework to support training and education and change management across all parts of the domestic and family violence and the justice system that incorporates:

- an understanding of the nature and impacts of domestic and family violence, including coercive control as a pattern of behaviour over time in the context of a relationship as a whole
- supports the use of common language and concepts
- information about how to seek services and supports for victims, and interventions for perpetrators
- information about relevant laws and any changes to the law
- supports the development and implementation of effective change management approaches.

The training and education framework will be:

- informed by the voices of people with lived experience, including Aboriginal and Torres Strait Islander peoples, people with disability, LGBTIQA+ peoples and people from culturally and linguistically diverse backgrounds
- include a focus on culturally capable, victim-centred and trauma-informed approaches and incorporate a strong understanding of the gendered nature of domestic and family violence through an intersectional lens
- developed and delivered in collaboration with experts from the service sector, academia, and policing
- focused primarily on victim safety and holding perpetrators to account to stop the violence.

Recommendation 24

The Queensland Government develop, implement and adequately fund consistent evidence-based and trauma-informed ongoing training, education and effective change management strategies within all relevant agencies that deliver or fund services to victims and perpetrators of domestic and family violence and coercive control.

Agencies should regularly review and continue to implement and embed training and education for all frontline and other relevant staff and funded non-government agency staff that is consistent with and aligns to the training and education framework developed by the Department of Justice and Attorney-General.

This includes, as a priority, agencies that are responsible for:

- justice and justice services
- police
- corrective services
- health, drug and alcohol and mental health services
- education
- child safety and family support services
- youth justice services
- youth services
- housing and homelessness services
- community services
- disability services
- Aboriginal and Torres Strait Islander partnerships
- seniors
- multicultural affairs.

Implementation

The Taskforce has recommended that the development of the overarching framework sit within DJAG, given its portfolio responsibility for the prevention of domestic and family violence and as the funder of non-government domestic and family violence specialist services.

The development and regular review of the education and training framework should be informed by consultation with domestic and family violence, Aboriginal and Torres Strait Islander and legal stakeholders, and people with lived experience. It should incorporate input from domestic and family violence researchers and be grounded in the specific needs of agencies and services operating in Queensland.

This will ensure a single, best practice approach to education and training and change management that:

- is informed by people with lived experience
- considers the diverse nature of the Queensland community
- embeds cultural capability
- remains up to date to reflect legislative changes.

The recommended peak body for domestic and family violence services should assist in the development and implementation of the framework. This should include supporting service providers across the system to ensure their training and education programs and change-management approaches align with the framework.

Based on learnings from Scotland as the 'gold standard' in responding to coercive control[160] and from what the Taskforce heard in consultations and from submissions, training and education should, at a minimum, incorporate the following components:

- cultural considerations of the population, such as culturally appropriate responses to domestic violence involving Aboriginal and Torres Strait Islander peoples and people from CALD backgrounds
- gendered nature (such as through the use of a social entrapment framework) and stages of coercive control[161]
- factors that may impact victim help-seeking, leaving abusive relationships[162]
- the impacts of domestic violence on children
- legislation and evidence gathering
- case studies and understanding experiences through the eyes of victims and children[163]
- measures to evaluate the effectiveness of training (training content, delivery, impact, outcomes).[164]

Any training must be developed in collaboration with key stakeholders:[165]

- representatives of culture and diversity (First Nations, CALD, LGBTIQA+, Disability Advocates, domestic violence specialists)
- prosecutors and legal experts (to ensure any training regarding evidence collection, legislation, or legal processes is accurate)
- people with lived experience (to ensure training encompasses the broad range of behaviours evident in coercive controlling relationships)
- police practitioners (to ensure any components related to police practice, policies, or procedures are accurate).

Human rights considerations

Coercive controlling behaviours lead to significant infringement upon the human rights of victims and their children. This includes breaching the victim's right to life (section 16), the right to protection from torture, cruel, inhuman or degrading treatment (section 17) and the right to security of person (section 29). As demonstrated in chapters 1.1 and 2.1, coercive control can also limit a victim's freedom of movement (section 19); force a victim to undertake acts amounting to slavery or servitude (section 18); limit a victim's freedom of thought, conscience, religion or belief (section 20); interfere with freedom of expression (section 21); and limit the victim's rights to property (section 24) and to privacy and reputation (section 25).

Failures of the justice system to hold perpetrators accountable through:

- misidentification of the person most in need of protection
- promotion of the perpetrator's rights over that of the victim's right to be free from harm
- perceived discrimination of some sections of the Queensland community
- ongoing systems abuse

all breach human rights that provide recognition and equality before the law (section 15).

As the gateway to the criminal justice system, police have a significant role to play in promoting and upholding the human rights of victims and their children. Unless appropriate levels of resourcing, training, and cultural change are provided, it is likely that poor service system responses will continue to impact victims of coercive control. Without addressing current failures of the legal system, perpetrators will be further enabled to use the system to continue their abuse of victims and their children. Transformational change of the justice and service system is required at every level. Without significant and long-term investment, it is unlikely anything will change for victims, and the next generation will continue bearing the brunt of coercive control.

Evaluation

The overarching training and education and change management framework should be regularly revised and updated so it remains evidence-based and up to date. Individual agency and service provider programs and strategies should also be regularly reviewed and updated to ensure consistency and alignment with the framework.

As a critical component of the recommended four-phase implementation plan, monitoring and evaluation must focus on the outcomes achieved through the delivery of training and education and change management. This includes measuring, monitoring, and evaluating the improvements in expertise and competency of staff and the outcomes for victims and perpetrators.

The effectiveness of training and education and change processes must be independently evaluated outside of each agency. An evaluation plan should be developed early as part of the design process and include the collection of baseline data and information. This plan should align with and form part of the monitoring and evaluation framework recommended by the Taskforce (chapter 4.1).

Conclusion

As noted in chapter 1.2, Queensland's specialist domestic and family violence service system has experienced considerable growth since the delivery of the *Not Now, Not Ever* report. If victims do not have access to high-quality and appropriate services in their community, and perpetrators are unable to access support to change their behaviours early on, the pattern of violence and abuse will continue.

Victims and the community are calling for changes across the service system to better meet their needs and to keep them safe. A challenge for services is delivering tailored and responsive initiatives to victims across the decentralised landscape of Queensland that is home to many different communities.

This chapter has recommended a strategic investment plan to build an innovative and contemporary service system that will meet future needs and demands across the state, to be supported and overseen by a peak body. It also contains the Taskforce's recommendations to:

- enhance common approaches to intersectional issues and risk assessment to connect victims to appropriate support throughout their journey through the service system
- develop shared and holistic approaches to risk assessment and safety planning for both victims and perpetrators.

The chapter also made recommendations to strengthen information sharing to support integrated approaches, practice frameworks and tools that equip staff to help victims of domestic and family violence care protectively for their children, and to reinvigorate the role of the Department of Health and each Hospital and Health Service in Integrated Service System Responses and High Risk Teams.

Finally, this chapter has recognised the need for training and education that enables services to recognise patterns of violence over time in the context of a relationship as a whole. Before commencing legislative reforms to create a new coercive control offence, the development of a framework to support consistent evidence-based and trauma-informed training and education across government is necessary.

Annexure A

Training on coercive control offences in other jurisdictions

The timing and extent of training in jurisdictions with an offence related to coercive control vary. The Scottish example, often regarded as the 'gold standard', ensured an extensive lead-in time before the offence commenced.[166] This included substantial funding commitments by government to ensure resourcing and infrastructure were in place to respond to the likely increase in charges for the new offence.[167] It also included significant consultation with the domestic, family and sexual violence service system and people with lived experience to capture the true impact of coercive control.[168] A comprehensive and accessible training regime was implemented across the justice and service systems as well as the broader community.[169] In contrast, the England and Wales experience highlighted the lack of a systematic approach across justice, service and community systems to recognise and respond to coercive control adequately.[170] This was also evident in Tasmania, where slow uptake on reporting and charging for coercive control was associated with a lack of community awareness of what constitutes coercive controlling behaviour and a lack of understanding across the justice system.[171] Similar results were also evident in Ireland, where issues were raised by police and the service system about a lack of training prior to the implementation of the offence and the need for greater funding and resources to respond to coercive control.[172]

Scotland

In 2014, the former Scottish Solicitor General called for consideration of legislating a specific offence that better reflected and acknowledged the true experience of victims of long-term abuse from coercive control.[173] It was believed legislation would acknowledge the true impact and consequences of coercive control on victims, provide clarity to the public and police, and declare that coercive controlling conduct was not acceptable.[174] In response, a multi-agency working group on coercive control was established to review the current legal framework and gaps in the law and identify types of behaviours experienced by victims, including the significant impacts of coercive control on their children.[175]

Gaps in the existing legal response to coercive control led to the development of the *Domestic Abuse (Scotland) Act 2018*.[176] It was acknowledged that before implementing this offence in 2019, a substantial communication and engagement strategy was required. This included significant communication with the public and the justice and service systems.[177] Extensive training was also developed and delivered across the justice and service systems to ensure consistent understanding, awareness, and response to coercive control once legislation came into effect.[178]

Coercive control training for police began in November 2018 and continued through to the commencement of the legislation in 2019. A blended learning model was used to deliver the training, including e-learning, co-delivered face-to-face sessions, and training of champions.[179] To accompany e-learning modules, Scotland Police provided new mobile devices with re-usable content to ensure training was sustainable. Partnering with a domestic violence specialist, Scotland Police was able to co-deliver 608 training sessions with 25 participants per course.[180] An additional 700 participants (officers or staff) were trained to become champions of change.[181]

An evaluation of the training was conducted to determine its effectiveness. Feedback from more than 13,000 officers and staff found that 85% of participants had gained a strong understanding of the Act; 94% of participants had a strong understanding of the stages of coercive control; 95% had a strong understanding of perpetrator tactics; and 94% understood the impact of domestic violence and coercive control on children.[182]

Similar training was provided to legal staff. Extending the existing Domestic Abuse training materials, the additional modules provided to legal staff included:

- detailed internal case marking instructions
- specialised training packages
- train-the-trainer courses delivered centrally
- identification of key members of staff to deliver local training
- evidential considerations and specific features of the new Act.[183]

Along with extensive training, Scotland Police partnered with key stakeholders, including prosecutors. Monthly meetings between police and prosecutors proved beneficial for discussing outcomes, practice, and processes.[184] Co-location of independent domestic violence advisors in police stations enabled information-sharing to support prosecution.[185]

Extensive media marketing of the new offence raised awareness in the community. Use of newspaper advertising and social media coverage, along with television shows and movies that featured coercive control, supported greater understanding of what coercive control means in Scotland.[186]

The success of the coercive control legislation in Scotland has been attributed to:

- widespread training provided to police officers, judges, social workers, and the service system
- extensive consultation with women's organisations and people with lived experience during the development of the legislation over a long period[187]
- the development of protocols to ensure appropriate evidence was gathered.[188]

Systems accountability was also a vital component for evaluating the success of the legislation. This included police supervisors holding officers accountable, developing measures to collect appropriate data, feedback loops between services and government, and a 5–10-year implementation strategy.[189]

It has been suggested that before implementing coercive control legislation in Australia, there should be:

- extensive consultation
- comprehensive, mandatory pre-commencement and ongoing training provided to the justice and service systems
- awareness-raising programs
- development and delivery of campaigns and programs aligned to the draft Bill.[190]

England and Wales

In 2014, Her Majesty's Inspectorate of Constabulary released a report that concluded the current policing response to domestic and family violence was insufficient due to a lack of skills and knowledge on the part of the police.[191] This report criticised the over-reliance on e-learning and instead promoted the use of evidence-based, face-to-face training targeted towards knowledge acquisition and cultural change.[192]

In 2015, England and Wales was the first jurisdiction to criminalise coercive control.[193] As in Scotland, police forces across England and Wales implemented a training regime to support police in recognising and responding effectively to coercive control. Domestic Abuse Matters is a cultural change program specifically designed in collaboration with SafeLives, the College of Policing, and Women's Aid to transform the way police respond to domestic and family violence.[194] The program places victims' voices at the centre so police better understand coercive control.[195]

The program aims to drive long-term cultural and attitudinal change, and support sustainable improvement and consistency in the policing response to domestic violence.[196] It does this by helping police understand what coercive control means, challenges victim-blaming attitudes, and prompts police to recognise perpetrator tactics and the influence it has on the policing response.[197] The program also covers:

- investigating coercive control offences
- dynamics of coercive control and domestic violence
- strategies and skills to improve victim outcomes
- assessment of relevant organisational domestic violence policies.[198]

The program is delivered through a one-day training event, enhanced training for 'champions', and follow-up support provided through online forums and ongoing professional development opportunities.[199]

An evaluation following the one-day training component of the program found a 41% increase in the rate of arrest for coercive control under the new legislation.[200] The effects of training on arrest began to decline after eight months post-training, suggesting the need for ongoing, refresher training.[201] It is also possible that arrest rates by police did not result in positive court outcomes, thus reducing the motivation of police to continue pursuing perpetrators through the coercive control offence.[202] Limitations to this study identified that future evaluations should explore victim outcomes, officers' initial assessment of risk, quality of police reports, and referrals.[203]

Unlike in Scotland, implementation of section 76 of the *Serious Crime Act 2015* (UK) offence of 'controlling or coercive behaviour in an intimate or family relationship' did not include a systematic approach to education and awareness-raising involving police, prosecutors, professionals, and the public.[204]

The significance of cultural change cannot be underestimated. As noted in the England and Wales context:

> [training is not just about building knowledge, it is about] changing police behaviour, you're changing hearts and minds, and you're trying to change people's understanding of what they've been taught.[205]

There is a need to bring together the justice and service system to produce a common understanding, a consistent approach, and cultural and attitudinal change.[206]

Ireland

In 2019, Ireland criminalised coercive control through the introduction of section 39 of the new *Domestic Violence Act 2018.*[207] Coercive control was described by the Garda National Protective Services Bureau as:

> an insidious and demeaning crime designed to degrade and debilitate an individual and their persona. It is a deeply dangerous and personal crime against the person usually committed over a prolonged period.[208]

The first conviction under this legislation occurred in February 2020.[209]

The Minister for Justice and Equality noted the importance of training to ensure understanding of those tasked with intervening in coercive control and domestic violence.[210] Training for the new offence was not delivered until after the legislation formally commenced to ensure that relevant sections were covered in training.[211]

But this lack of training before the commencement of the legislation was raised as a concern, with debates occurring throughout the stages of the Bill's passing demonstrating the fundamental importance of awareness-raising, training, and resourcing occurring alongside criminalisation.[212]

On 10 January 2019, a local Irish media outlet quoted the National Executive of the Association of Garda Sergeants and Inspectors (the Association) who raised concerns over the lack of training for police:

> We are calling on the Garda Commission … to prioritise training in this area as a matter of urgency … Appropriate training delivered in advance of legislation being implemented will ensure the public receives the best possible policing service.[213]

The Association welcomed new legislation and stated that to achieve the desired outcomes, there had to be continuous professional development programs for frontline members attending these incidents daily.[214] The Director of Women's Aid also noted the importance of training for identifying coercive control and the information required for building a case.[215] Women's Aid is a Centre of Excellence for training and development. It provides domestic violence training to police, legal aid, courts, health, and community services.[216] This training includes best practice approaches to protect women and children, covering the intersection between domestic violence and mental health. It offers practical skills workshops on managing disclosures and tailored training to suit organisational needs.[217]

Once legislation commenced, training was provided through the Templemore Garda College to members of the divisional protective services unit (similar to vulnerable persons units in Queensland) and inspectors nationwide.[218] This training was delivered by an international expert as part of a three-day training program. Train-the-trainer modules were also delivered for members of *An Garda Síochána* (the police).[219] This training was developed in conjunction with the Garda National Protected Services Bureau. In addition, ongoing professional development training programs will be provided, including training for probationary police. Bi-monthly domestic violence training of all police with domestic violence portfolios will also be delivered.[220] This training will cover all aspects of the new offence of coercive control and domestic abuse.[221]

It is too early to say whether the training has increased understanding or recognition of coercive control in Ireland or the impacts of training on the broader justice system.

Safe Ireland, an Ireland-based charity, has called for an additional €10 million for police training on domestic violence, stating that a 'critical mass of training to bring about real cultural change' was required.[222] They called for 'transformational investment' in core training and ongoing professional development for police to be 'supported and resourced by the State'.[223]

Tasmania

In response to perceived failures of the criminal justice response and entrenched views of domestic violence as a private matter, Tasmania enacted the *Family Violence Act 2004* (Tas).[224] In doing this, it became the first Australian jurisdiction to enact and criminalise the offence of economic and emotional abuse or intimidation.[225] The introduction of these offences in 2005 coincided with reforms to the way domestic and family violence was addressed in Tasmania.[226]

Uptake of the new offence has been slow, with the first charge being laid years after its introduction and only 73 charges laid in 10 years.[227] Several reasons have been provided for the slow uptake, including a lack of community awareness of coercive control, difficulties in police training and identification and investigation of course-of-conduct offending, and statutory time limitations for laying complaints.[228]

It has been suggested that the lack of community campaigning and awareness-raising before and after the implementation of the *Family Violence Act 2004* (Tas) has limited the effectiveness of the legislation.[229]

It has also been suggested that misleading media reporting of prosecutions for the offence, coupled with a lack of online information available, may have impeded victims from reporting coercive control.[230] This is partly due to a lack of awareness of behaviours that constitute domestic violence and coercive control in the public, justice, and service systems.

Another impediment to identifying and prosecuting coercive control is the lack of police training.[231] The Safe at Home program that was originally delivered focused on immediate changes to processes and police powers and a pro-arrest model of enforcement.[232] This training failed to provide guidance on the behaviours that constitute coercive control and how to recognise the offence and patterned forms of abuse.[233] Training for frontline police to recognise coercive control is vital for prosecuting the offence. The Tasmanian example has shown that officers and prosecutors who have a stronger understanding of coercive control are better placed to recognise and respond to this form of abuse.[234]

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Chapter 3.4

Holding perpetrators accountable to stop the violence

Keeping victims safe requires perpetrators to be held accountable and change their behaviour to stop the violence. It is time for perpetrators to be visible in the justice and domestic and family violence service systems. A comprehensive response to addressing coercive control requires opportunities for people using violence and abuse to challenge and change their behaviour. Critical to this is increasing the availability, accessibility and diversity of perpetrator programs to support a whole-of-system approach to perpetrator accountability and behavioural change.

> 'I learnt how to communicate properly, how to see things from other people's perspectives, what respect looks like, how to control and understand my feelings.'[1]

This chapter makes recommendations about increasing responses to perpetrators to support them to change their behaviour. It discusses the need for increased availability of, and access to, perpetrator intervention programs to support the successful implementation of legislative reforms recommended in this report, and to stop domestic and family violence and coercive control before it escalates. The Taskforce strongly suggests that the expansion of perpetrator interventions involves a public health approach incorporating:

- primary prevention to provide information, education, and support that everyone can access
- secondary supports targeting those perpetrators who have used violence in their relationships and want to change
- tertiary interventions specifically targeting perpetrators involved in the criminal justice system and for whom more urgent and intensive responses are required.

Coupling this type of approach with the introduction of criminal sanctions for coercive control is important. It will help prevent domestic and family violence occurring in the first place, and reduce the need for charges to be prosecuted.

The Taskforce recommends the Queensland Government design, establish, and adequately resource a state-wide network of perpetrator intervention programs. The network of programs will recognise that perpetrator intervention is essential to keeping victims safe from violence. These programs should form part of the domestic and family violence service system strategic investment plan, as outlined in chapter 3.3. The priority is to establish programs for people who have been charged with or convicted of a domestic violence related offence. This will support the implementation of the Taskforce's proposals for legislative reform.

The state-wide network of programs for perpetrators must incorporate a spectrum of perpetrator interventions across a continuum of risk and need, so that appropriate responses are available for all people who are perpetrators, or at risk of perpetrating domestic and family violence, including coercive control. As discussed in chapter 1.2, we heard near unanimous support during consultation for earlier support and provision of services to change the underlying beliefs and attitudes that can lead to domestic and family violence and coercive control, and change behaviour before it escalates. The Taskforce has also heard that there needs to be more intensive programs of longer duration and that programs must be integrated with other supports and services to address multiple and complex needs for perpetrators whose behaviour is high-risk.

As discussed in chapter 1.2, the Taskforce has heard that programs must be specifically designed with Aboriginal and Torres Strait Islander peoples to meet the needs of First Nations peoples who use violence in their relationships. These programs should incorporate a healing approach and reconnect perpetrators to culture and community.

Programs also need to better meet the needs of people with disability, young people, older people, people from culturally and linguistically diverse backgrounds and people who identify as LGBTIQA+ in urban, rural, regional, and remote locations. As programs become available, it will be important to have a clear referral pathway to enable services operating within an integrated and coordinated service system response to refer perpetrators to the right intervention at the right time. It is important to connect perpetrators promptly to a service when they identify their need to change and are ready to take that first step(chapter 3.3).

The evidence base about what works to change behaviour is developing. It is important that programs focus primarily on monitoring perpetrators to keep victims safe. Programs should incorporate victim advocacy and regularly assess the safety risk for victims and flexibly respond during an intervention with a perpetrator. Assessment of perpetrator change should be informed by victim experiences wherever possible. Risk assessment processes used by perpetrator intervention

programs should be consistent and align with the recommended overarching risk assessment framework developed by the Department of Justice and Attorney-General (DJAG) (chapter 3.3).

The Taskforce has heard that in some locations, the programs, despite being funded, are not operating to provide services because of the difficulty attracting, recruiting and retaining skilled staff. More needs to be done to support development of a skilled workforce and to help service providers fill vacancies to enable service continuity, particularly in rural, regional and remote areas. This should be done in collaboration with an integrated peak body for the domestic and family violence service system (chapter 3.3) and with service providers that provide services and supports to perpetrators. Workers in services that provide perpetrator interventions should receive regular ongoing training and education consistent with the recommended overarching training and education framework developed by DJAG (chapter 3.3).

In the past, efforts to strengthen the domestic and family violence service system have rightly focused on services that directly support victims. This needs to remain the focus. However, interventions that support perpetrators to be accountable, change their behaviour, and stop the violence also play a vital role in keeping victims safe. Unless we change the behaviour of perpetrators and hold them accountable, victims will not be safe.

Intervening with perpetrators to keep victims safe

Criminal sanctions alone are generally not effective in preventing further violence and abuse. A combination of accountability measures, including criminal sanctions and other justice system interventions needs to be employed in conjunction with perpetrator programs to address the underlying causes and support behavioural change. This is essential for strengthening our response to coercive control and laying the foundations for criminalising coercive control.

> To make a real and tangible difference to the safety and wellbeing of victim survivors, the many agencies and services that interact with perpetrators need to work together as part of an integrated system with a shared understanding of purpose.[2]

Consistent with the public health approach described throughout this report, there is a need for programs that cut across the spectrum of intervention - primary, secondary and tertiary. Most perpetrator interventions currently focus (mostly) on a crisis response. This means intervention and support are only provided after domestic and family violence has occurred and after a victim has been harmed. Too frequently, this is only after physical injuries have been sustained.

More programs of higher quality need to be available across the state. There also needs to be different types of programs that respond to various levels of behaviour and risk. A range of different types of programs should be available to recognise that group programs are not suitable for everyone.

> We strongly advocate for increased government investment in a range of new men's perpetrator programs and trials to develop prevention, early intervention and post-violence interventions. A continuum of perpetrator intervention options must also include outreach programs, including support and case management, and therapeutic counselling whilst in prison and when exiting prison.[3]

Queensland's response to domestic and family violence to date has (understandably) prioritised investment in victim support services. As approaches around the country have matured, it is increasingly recognised that to keep victims safe, the focus on perpetrators must intensify. If the causes of the behaviour aren't addressed and the behaviour stopped, the victim, and future victims, continue to be at risk. The need to 'pivot to the perpetrator' has been articulated strongly in Taskforce consultation and reflects recent approaches to working with families in the context of child safety.[4]

Implementation of the recommendations made by the Taskforce in this report will collectively require a stronger refocus on holding perpetrators accountable across the justice and service systems and in the community. It will require more and better programs for perpetrators. There needs to be better understanding across the community about the nature and impact of domestic and family violence and for the community to hold perpetrators accountable. Increased community awareness of coercive control is likely to lead to people seeking help to change their behaviour. Opportunities to intervene when perpetrators themselves seek help are lost because waiting lists are long and in some areas, programs are not available at all. More also needs to be done to support mainstream and domestic and family violence specialist services so that these opportunities aren't lost in the future.

This report recommends legislative change that will provide additional intervention points within the criminal justice system response to increase perpetrator accountability and oversight. IT recommends amending:

- the *Domestic and Family Violence Protection Act 2012* (DFVP Act) to create a domestic violence diversion scheme for a first time breach of a first Domestic Violence Order where the breach could not otherwise be prosecuted as an indictable offence (chapter 3.9)
- the *Penalties and Sentences Act 1992* to allow for post-conviction civil supervision and rehabilitation orders for serious domestic and family violence offenders (chapter 3.9).

Increasing the availability and accessibility of perpetrator programs across the state will also support the use of existing mechanisms, including the ability for a court to make an intervention order when making a Domestic Violence Order under the DFVP Act.

Evidence about what works to change perpetrator behaviour is still emerging in the literature. A lack of investment in programs contributes to the lack of evidence about their value. The expansion of programs will require the government to trial and test different approaches with evaluation outcomes contributing to the ongoing development of the evidence base.

In the meantime, the lack of evidence about what works should not result in a failure to do more to intervene. The only alternative is to increase the number of perpetrators in prisons. The Taskforce has heard during consultations that this is not the preferred approach because it is expensive for the state and for families and does not deliver the desired outcomes. However, participation in an intervention program alone is not a panacea. Mere participation in a short group program is not likely to 'fix' the violent and abusive behaviours and change the underlying attitudes and beliefs of a lifetime. Nor is it likely to keep victims safe.

Combined with appropriate mechanisms for accountability in the criminal justice system, perpetrator programs are an important component of preventing domestic and family violence. It is time for Queensland to implement a whole-of-system approach to perpetrator accountability and behavioural change that has an unwavering focus on victim safety.

...to increase the accountability of family violence perpetrators (we) must shift the burden away from victim survivors who have had to bear responsibility for action for far too long.[5]

Programs must be more available and accessible. There also needs to be a greater variety of programs provided across the state. Greater diversity in terms of design, content and mode of delivery is needed to respond to the different needs and risk level of perpetrators (and potential perpetrators).

While perpetrator intervention programs provide an opportunity to focus on and monitor the motivations and behaviour of perpetrators, they should remain firmly connected to the ongoing experiences of victims. The Taskforce has heard about the skilled manipulation of family, friends and professionals by perpetrators and the significant risk that any engagement can result in collusion and minimisation which can inadvertently result in increased risk for victims. Programs need to assess the ongoing safety risk for victims regularly, flexibly respond during an intervention with a perpetrator and incorporate victim advocacy. As discussed below, this could ideally include a case management approach. This risk assessment and management of perpetrator interventions should align with other Taskforce recommendations about the implementation of a whole-of-system framework for risk assessment and safety planning (chapter 3.3).

Perpetrator programs across the spectrum of intervention

To address domestic and family violence and coercive control in Queensland, significantly more attention must be given to perpetrator accountability and behavioural change. The burden currently remains on victims to monitor and report concerning perpetrator behaviour and advocate for perpetrators to be held accountable.

Establishing a whole-of-system response to perpetrator accountability and behavioural change is central to the Taskforce's recommendations to strengthen the existing service system response to coercive control as part of the recommended four-phase implementation plan (chapter 2.3).

Recommendation 9 of the 2019-20 annual report of the Domestic and Family Violence Death Review and Advisory Board (DFVDRAB)[6] recommended the development of a standalone, system-wide strategy for responding to perpetrators. The Queensland Government accepted this recommendation and committed the Department of Justice and Attorney-General, in close collaboration with the Queensland Police Service and Queensland Corrective Services along with support from other relevant agencies, to develop a strategic, long-term framework to guide the Queensland Government's work in strengthening responses to all perpetrators of domestic and family violence – responses that will align with the *Domestic and Family Violence Prevention Strategy 2016-26* and its action plans.[7]

Perpetrator programs are an important component of a whole-of-system approach to perpetrator intervention. The Taskforce has consistently heard that there is a critical shortage of programs to support perpetrators in addressing their violent behaviours. As discussed in chapter 1.2, demand far outstrips the number and variety of programs currently offered, with long waitlists or lack of availability reported in consultations around the state. Current programs are not sufficiently diverse to cater for the different needs of perpetrators or to provide the right response at the right time.

Bringing perpetrators into view and supporting behaviour change is essential to reduce family violence.[8]

A public health model supports engaging men in programs that aim to prevent or change violent or abusive behaviours across three tiers primary prevention (preventing violence before it occurs); secondary intervention (targeted intervention for at-risk populations and individuals); and tertiary intervention (to hold perpetrators to account, promote behavioural change and increase victim safety after violence and abuse occurs).

The limited availability of programs in Queensland means the majority are targeted at tertiary responses, with limited capacity for early intervention or primary prevention. While the Taskforce recommends that this should be the priority for expansion in the short term to support the implementation of legislative reform against coercive control, a greater focus on prevention is essential for long term change across all levels of society. As explained in one submission:

> you can provide all the support and protection in the world after it has happened but that is when it is too late. We need programs in schools from a very young grassroots level to teach care and respect towards a fellow human being whether it be a male, female, child or otherwise.[9]

Accessible early intervention programs for perpetrators

What the Taskforce heard in submissions and during consultation reflects the findings of the Victorian Royal Commission into Family Violence that there needs to be a greater focus on early intervention and prevention rather than just crisis responses. Intervening at a time when individuals are seeking help and before escalation is likely to reduce domestic and family violence and its impacts.[10]

As discussed in chapter 1.2, the Taskforce heard about men contacting crisis support lines and seeking support to change their behaviour[11] and partners seeking opportunities for their men to attend behaviour change programs before any interaction with the justice system. Concerningly, however, the shortage of perpetrator programs meant that these men generally faced long waitlists or were unable to access programs at all. The opportunity to support their readiness to engage was lost. This is a missed opportunity for early intervention to prevent future harm and is concerning given that readiness to change is recognised as an important perpetrator characteristic influencing the completion of programs and post program outcomes.[12]

Increasing the availability of programs at this earlier stage of intervention where there is a high level of readiness to change behaviour represents a smart use of resources. The required intervention is likely to be less intensive and will contribute to reducing demand for more resource-intensive tertiary interventions, including through the justice system.

The Taskforce is of the firm view there should be a significant increase in the accessibility and availability of programs for perpetrators who self-refer.

Providing programs especially designed to change the behaviour of young people

As outlined in chapter 1.2, the Taskforce was very concerned to hear from a range of stakeholders about domestic and family violence perpetrated by young people against both family members and intimate partners. This appears to be supported by evidence, despite the additional barriers to reporting violence and abuse perpetrated by young people. Researchers have suggested that responses to children and young people who commit domestic and family violence have been an overlooked area in reforms in Australia to date.[13]

It is widely acknowledged that many young people using violence and abuse are themselves victims of domestic and family violence. Domestic violence undermines the mother-child attachment and presents children with a negative model of how relationships operate. [14] It then influences young people's use of violence towards their mothers as well as intimate partners in future relationships.[15]

As discussed in chapter 1.2, the Taskforce supports a differentiated approach for young people using violence. This approach should focus on providing a therapeutic response that diverts young people away from the criminal justice system and addresses the underlying causes of their behaviour, while also paying close attention to the safety of victims. This aligns with emerging research that supports the need for a specialist response that is tailored to the developmental stages of young people and the underlying drivers of the perpetration of violence by young people. Within this, there is a need to consider that the responses to young people using violence against family members, and those using violence against intimate partners may need to be different.

There are currently very few programs in Queensland that are both available and specifically address the needs of young people perpetrating domestic and family violence, with those programs that are available concentrated in the south-east of the state. The Taskforce understands there is one program being developed in the Brisbane Youth Detention Centre with a focus on young people who have committed serious intimate partner violence. Youth and Family Services (YFS) run *Side by Side,* a program for young people in the Logan and Beaudesert areas who may be in conflict with their protective parent (usually their mother). This program is an attachment-based intervention that works with both the young person and mother to establish, or rebuild, a relationship of trust to counter the negative experiences of domestic and family violence.[16] YFS also run *R4Respect* and *Men4Respect*, both of which are well-respected peer based programs that aim to prevent controlling and abusive behaviour at a young age and break the cycle of domestic and family violence.[17]

The Taskforce is also aware of trial programs underway. Trials of the ReNew program[18] seek to reduce domestic and family violence by young men against their mothers and siblings, improve attachment between mothers and sons and reduce the risk of young people perpetrating domestic and family violence as adults. [19] Another trial run through the Brisbane Youth Service focuses on young people using violence and abuse towards their partners. It involves a specialist domestic and family violence worker embedded in the Brisbane Youth Service working with young people and building the capacity of youth workers to identify and respond to domestic and family violence. [20] . These programs often offer services to parents and siblings to manage risk and safety while the young person is engaged in intervention. The evaluation of these trials is yet to be finalised.

These are promising programs, but at present their reach is not sufficient to provide young people at risk of perpetrating, or already perpetrating, domestic and family violence against their parents, siblings and intimate partners, with the support they require. The outcomes and evaluations of these programs and those in other jurisdictions (for example Project STRONG in the USA[21]) should inform the expansion of the number and range of programs available for young people. As discussed elsewhere, the desire for an evidence-informed approach should not limit opportunities for innovation. This is particularly relevant for programs with Aboriginal and Torres Strait Islander young people whose use of violence in family contexts may differ from non-Indigenous youth[22].

Targeted programs for respondents to Domestic Violence Orders and for perpetrators who breach an order for the first time

There is a clear need to engage perpetrators who have come into contact with the justice system through programs that support them to identify, challenge and ultimately stop their abusive behaviour. The Taskforce heard that more needs to be done for first time offenders.[23]

Perpetrator programs used as part of the criminal justice response have been shown to be particularly effective when:

- they are ordered at an early stage in the proceedings
- compliance is monitored by the court
- the court responds quickly to non-compliance.[24]

There are several ways perpetrators who come into contact with the justice system can be referred to intervention programs. These include:

- being referred to a program when they come into contact with police
- engaging with supports and services when they attend court for example, where a specialist domestic and family violence court model is in place
- a court making an intervention order under the DFVP Act when it makes a temporary protection order or Domestic Violence Order
- being sentenced to a community based order when convicted for a breach of a Domestic Violence Order or other domestic violence related offence and being referred to a program as part of that order
- when conditions are included as part of a parole order.

Perpetrators may also be referred to programs as part of their participation in the Court Link program (described in chapters 1.2 and 1.4). Court Link is a court assessment and referral program for people appearing before the Magistrates Court who are charged with any criminal offence, regardless of whether they plead guilty or not guilty. Court Link is available in the Brisbane, Cairns, Ipswich, Southport, Caboolture, Redcliffe, Maroochydore and Mount Isa Magistrates Courts. It can help a person get assistance with issues that contribute to the frequency or severity of their offending behaviour.

The current shortage of perpetrator programs and the extended wait times limit engagement and uptake by perpetrators to undertake the programs they are referred to, a problem exacerbated in regional areas where the shortage is more pronounced. More diversity across programs is required to respond appropriately to perpetrators' needs taking into account the level and type of risk, the likelihood of a program making a difference and the ability to address underlying and contributing drivers of violence.

To support the recommended introduction of a domestic and family violence diversion scheme for offenders on their first breach of their first Domestic Violence Order (chapter 3.9), it would be appropriate to develop a targeted program for this cohort of offenders.

Providing targeted and intensive programs for perpetrators charged with or convicted of a domestic violence related offence

The availability, intensity and length of programs for perpetrators convicted of domestic violence offences must increase. This includes increasing the number of programs available for perpetrators who are in the community and for those who are in custody. It also includes increasing the availability of programs specifically tailored to provide the level of intensity and supervision required as part of community-based programs for perpetrators placed on a post-conviction civil supervision and rehabilitation order, as recommended by the Taskforce.

As these programs target offenders who have been convicted of an offence, they are part of the response to higher-risk perpetrators. They need to be responsive to the contributing risk factors, and employ robust mechanisms for assessing and monitoring victim safety throughout the perpetrator's engagement with the program. This could include remaining in regular contact with the perpetrator and visiting them at home. Providing ongoing contact after the completion of a program should also be considered.

These programs will need to be more intensive in terms of program duration and frequency of attendance and require a high level of scrutiny and victim support to hold the perpetrator accountable and continuously monitor and manage safety risks.

To support desired outcomes, these programs should be integrated with the broader domestic and family violence service system, with appropriate information sharing and cross-agency collaboration to ensure positive outcomes for victim safety and perpetrator accountability and behavioural change.[25]

The *Men's Domestic Violence Education and Intervention Program*, a partnership between the Domestic Violence Prevention Centre Gold Coast Inc. and Queensland Corrective Services, is one such program designed for this cohort of perpetrators.[26] The outcomes of this program, including successes and any challenges in its delivery, should be considered carefully in further development and expansion of this type of program.

Programs for perpetrators in custody

Most domestic and family violence perpetrators who serve time in custody, either on remand or as part of a sentence, return to their communities, and often their families or partners, without the opportunity to participate in a rehabilitative program to address their violent behaviour. The Taskforce received a number of submissions that criticised the lack of programs for perpetrators of domestic and family violence while they are in custody.[27]

The Taskforce heard that perpetrators often continue their abuse and coercive controlling behaviours while in custody, either directly or through another person.[28] There are arrangements that operate to enable intelligence information to be shared between Queensland Corrective Services and the Queensland Police Service in this regard. The delivery of perpetrator programs in custodial settings should be coupled with and reinforced by strong responses to protect victims while a perpetrator is in custody.

The feedback the Taskforce received about the lack of support provided to perpetrators who are in custody to assist their reintegration into the community was not limited to the deficiency of programs to address domestic and family violence.

> Programs such as men's behaviour change programs, alcohol and drug programs, proper responses to mental health etc. are simply not available to most prisoners who seek them. Other programs like literacy, including financial literacy and training for work that may assist in reintegration are not sufficiently resourced.[29]

The North Queensland Women's Legal Service raised concerns about the lack of available programs for perpetrators who are in custody and advocated for the introduction of perpetrator programs of different lengths. This includes mandatory programs for those offenders sentenced to six or more months in prison and shorter programs available for those on remand.[30]

> Incarceration is a unique opportunity where services can be wrapped around perpetrators to attempt to facilitate a change of attitude/behaviour.[31]

Not all stakeholders, however, were supportive of rehabilitative programs for domestic and family violence perpetrators while in custody. While noting the lack of access to programs in custody, the Prisoner's Legal Service suggested that having more programs in custody was not an appropriate solution given that:

- meaningful investment was unlikely
- programs for victims and perpetrators to participate together was not possible
- prisons are not effective at rehabilitation. [32]

Similarly, the Aboriginal and Torres Strait Islander Legal Service noted that prisons are 'a less than ideal place to lead the process for [the] behavioural changes needed to address offending behaviour'.[33]

As noted in chapter 1.2, the only current custodial domestic and family violence program is a trial program in the Woodford, Wolston and Maryborough correctional centres. The 2021-22 State Budget provided funding to enable the re-commencement of the trial using a revised program in these centres.

The Taskforce acknowledges that research evidence about the effectiveness of prison based perpetrator programs is not strong and results are mixed[34], although some results indicate positive change in attitudes and self-regulation.[35] Intervention provided in custody requires strong follow-up after release from custody to monitor the safety of victims and enable sustained behavioural change. Nevertheless, participants in prison-based programs are likely to improve their readiness to participate in mainstream services. Such initiatives require further consideration and evaluation to continue to build the evidence base.

While time in prison is a significant sanction that reflects the seriousness of domestic and family violence, releasing offenders without opportunities to address their offending behaviour during their sentence is a lost opportunity to improve the safety of victims. The Taskforce recommends increasing the availability of perpetrator programs in custody with access provided to prisoners on short sentences or remand and those on longer sentences (recommendation 25). Ideally, a diversity of programs should be provided to cater to the different needs of prisoners. These programs should be required to meet the same minimum standards as all perpetrator programs funded by the Queensland Government and be supported by robust evaluation and risk management processes.

Increasing the diversity of programs for people using violence and abuse

As discussed in chapter 1.2, there is a critical shortage of perpetrator programs and insufficient diversity in the programs that are available. While limited, the research is showing that different program approaches may suit different perpetrators, and that program styles should be tailored to particular perpetrators. [36]

To facilitate perpetrator behavioural change, a complex series of processes must be negotiated. This takes place at the individual (psycho-behavioural), relationship (partner/children/family members) and societal/structural levels (employment status, finances).[37] This negotiation is best achieved through an individually tailored approach that accounts for the unique circumstances, triggers and context of violence.[38]

The complexity of domestic and family violence and coercive control requires a multi-pronged approach. The submissions received by the Taskforce and the consultation undertaken coupled with an analysis of the literature, demonstrate that a one-size-fits-all approach will not work.[39] Instead, a multi-modal approach to address the underlying individual, relational and societal/structural factors that influence, support and facilitate domestic violence perpetration is needed.[40] This approach must be culturally considered to ensure people from culturally and linguistically diverse communities, Aboriginal and Torres Strait Islander peoples and people with disability can access and participate in programs.[41]

Programs must consider diversity of experiences such as people with intersecting vulnerabilities (for example, substance misuse, poverty, geographic isolation).[42] They must balance the need to develop and maintain the safety and security of victims and their children with a need to address perpetrator behaviour through accountable and rehabilitative measures to support long term positive change.[43] Finally, for programs to be truly effective, they must support perpetrators to transition through the various stages of behavioural change (acknowledgement, accepting accountability, willingness and motivation to change, and positive and long-term change).[44] This can be achieved by tailoring programs to the perpetrator's stage of change by incorporating the considerations outlined above, as well as tailoring content to match the person's level of education and learning style.[45]

Recommendation 25

The Queensland Government design, establish and adequately resource a state-wide network of perpetrator intervention programs. The network of programs will recognise that intervening to change perpetrator behaviour is essential to keeping victims safe from violence.

The state-wide network of programs will incorporate a public health approach and include victim-advocacy and support, to respond to people using violence and coercive control by:

- supplementing existing positive parenting and family support programs to include information about coercive controlling behaviour and the nature, impacts and risks of domestic and family violence including coercive control
- providing accessible early intervention programs for men who identify their own problematic behaviour and want to participate
- providing targeted programs for respondents to Domestic Violence Orders to support courts in making intervention orders, and the proposed Domestic and Family Violence Diversion Scheme (recommendation 74), under the *Domestic and Family Violence Protection Act 2012*
- providing programs especially designed to change behaviour of young people including those who are involved in the youth justice system on bail in the community, serving a community based order, or on remand or serving a sentence in detention
- providing targeted and intensive programs for people charged or convicted of domestic violence offences who are in custody (including on remand) and as part of a community corrections order or the proposed post-conviction civil supervision and rehabilitation order and while on parole or probation.

The state-wide network of programs should respond to and incorporate implementation of recommendation 9 of the Domestic and Family Violence Death Review and Advisory Board in its 2019-20 Annual Report.

The state-wide network of programs will include trialling, testing and evaluating new approaches to continue to build the evidence base about what works to hold perpetrators accountable so that victims are safe.

Recommendation 26

The Queensland Government ensure that the state-wide network of programs for perpetrators (recommendation 25) incorporates making available a diversity of perpetrator interventions across a continuum of risk and need. This will include programs of longer duration and increased intensity for some perpetrators including those convicted of domestic and family violence related offences, and tailored individual case management for those with multiple and complex needs and some capacity for change.

It will also incorporate a multi-modal approach to address the underlying individual, relational and societal/structural factors that influence, support and facilitate domestic violence perpetration.

Programs must consider the diversity of experiences such as people with intersecting vulnerabilities.

Implementation

Primary prevention

More opportunities are needed to intervene earlier to prevent abuse continuing and escalating. Leveraging existing government investment and services that are already working with families is one way to identify concerning behaviour earlier.

Parenting and family support programs provide families with support and guidance about relationships and managing challenging family situations.[46] They present an important opportunity to provide information about healthy and respectful relationships and to assist potential victims and perpetrators to identify problematic behaviour and be supported to seek help.[47] A range of parenting and family support programs are offered across Queensland. Two popular and widely available programs are the Triple P – Positive Parenting Program[48] and Circle of Security.[49]

Programs at the primary level of prevention are generally targeted at families voluntarily looking to strengthen their familial relationships and support healthy behaviours in children.[50] These programs are well placed to incorporate building awareness and providing perpetrators with tools to address domestic and family violence and coercive control. Engaging perpetrators through an approach based on improving their parenting and getting good outcomes for their children is potentially non-stigmatising and strengths based and has been used effectively in other jurisdictions. It is acknowledged that as part of the response to the *Not Now, Not Ever* report, significant efforts have been made to better integrate and coordinate responses across the family support and child protection system with the domestic and family violence system. This work is commendable and should continue.

Another option to consider is this. The programs, as an important part of the universally available primary prevention response to domestic and family violence, could be supplemented with content and training for providers about how to identify domestic and family violence. The Taskforce acknowledges that these programs are commercial programs, with content developed by their corporate owners. However, there may be opportunities for providers to continue to develop and supplement their programs and training for their staff.

The Queensland Government should consider other opportunities to leverage existing supports and services to enable universal access to support for perpetrators. This includes building capacity and capability within other 'mainstream' services and supports that perpetrators may already be accessing to identify and respond to concerning behaviours – for example, health and mental health services. It should also include ongoing implementation of bystander education and support programs to help family and friends identify the signs of this behaviour and how to support perpetrators to seek help. There also needs to be a clear referral pathway so perpetrators themselves can easily find help for themselves.

Such an approach will require strengthening the capability, capacity and availability of existing programs at the primary prevention level.

Targeted secondary support for perpetrators

As part of the *Supporting Families Changing Futures* reform program, which followed the 2012 Queensland Child Protection Commission of Inquiry, the Queensland Government has undertaken a range of initiatives aimed at changing the way government, child safety professionals, and community organisations work together with vulnerable families. One of the key focus areas is 'increasing the reach and effectiveness of family support services to help more families earlier and reduce the number of families escalating into the child protection system'. A key mechanism for achieving this is through Family and Child Connect services that help assess and refer families identified as needing family support and other services. - including domestic and family violence services.

The Queensland Government also funds Intensive Family Support and Aboriginal and Torres Strait Islander Family Wellbeing Services, which work with vulnerable families who are at risk of child protection intervention. These services are a critical component of the state's targeted secondary response to vulnerable families. Improving the capability and capacity of these services to identify and support perpetrators to take responsibility and change their behaviour should be considered as an option. It would probably require expanding the Safe and Together model to family support services and embedding specialist domestic and family violence expertise within these services to ensure safety concerns are identified and managed.

The Taskforce has heard about work undertaken to improve child protection workers' understanding and skills in relation to domestic and family violence (including through training in the Safe & Together™ model). This should be extended across the family support service system to strengthen engagement with fathers where there are concerns about domestic and family violence. The Taskforce discussed the new practice approach and tools in chapters 1.2 and 3.3 and made a recommendation about the need to ensure the approach supports child protection workers appropriately identify and respond to coercive control and that the implementation continue.

Tertiary and intensive interventions

Further roll out of programs in custodial and community corrections settings should build upon the findings and outcomes of evaluations undertaken to date as well as the existing evidence generally about intervening with perpetrators to change their behaviour. Programs for perpetrators convicted of domestic violence related offences must be of longer duration and intensity and incorporate case management to enable access to services to meet multiple and complex needs where there is some capacity for change.

Theoretical approaches to perpetrator programs

The design, structure, and delivery of individual perpetrator programs in Australia vary widely. There is no one theoretical approach. Programs are based in psychoeducational, psychotherapeutic and cognitive behavioural therapy, family therapy and couples counselling, and combined approaches.[51] Although there are required service standards embedded in Human Service Quality Framework compliance as part of service agreements, Queensland Government funding arrangements and service agreements do not prescribe a particular approach.

One of the criticisms of current approaches is that a single or siloed approach may not address what is a complex and intersectional issue. The foundational basis of programs can impact a program's success in terms of rates of completion.[52] For example, age and education may impact the likelihood of a perpetrator participating in and completing a particular type of program.[53] In designing and implementing a state-wide network of programs for perpetrators, the Queensland Government should be mindful of the various theoretical approaches and existing evidence base about what works for whom and when.

The most common types of programs are either based on the Duluth Model or have a cognitive behavioural focus.[54] The Duluth model has had a profound impact on perpetrator programs in the United States and in other places, including Australia.[55] It refers to the Duluth Domestic Abuse Intervention Project, a multi-disciplinary program, established in 1981 to address domestic and family violence in Duluth, Minnesota.[1] This model names beliefs about power, control and dominance over a victim, derived from patriarchal social structures in society, as the root causes of domestic and family violence[56] – as set out in its now famous 'power and control wheel'.[57]

Programs based on this approach involve facilitators raising the awareness of participants in a group. Participants are given tools and strategies to replace existing behaviours.[58] This is then reinforced by the criminal justice system response. The model also involves providing support and safety planning for victims. A collaborative approach across participating agencies are an important component of the approach.

The Duluth model is an example of a psychoeducational approach to addressing violence against women. These models are based on the assumption that violence is learned through witnessing the behaviour of others and then modelling behaviours that appear to provide some benefit.[59] The programs also draw on theories of gender inequity, patriarchy and male entitlement, with violence seen as a deliberate tactic to control women.[60]

It has been suggested that the model is ineffective in promoting genuine, self-directed behavioural change in violent men, fails to account for violence in LGBTIQA+ relationships, and fails to consider the individual contexts of offending.[61] The model has also been criticised as being a 'one-size-fits-all' approach that fails to acknowledge and address the psychological and biological causes of violence.[62] It has been suggested that the model is not transferable to culturally and linguistically diverse communities because the power and control wheel is largely based on Western ideals of family and fails to address other forms of abuse that may be seen in diverse populations.[63] It has also been suggested that the model can be counter-productive in terms of the role of the facilitator to develop and guide treatment goals to reduce the likelihood of reoffending.[64]

Cognitive behavioural therapy is another approach. This approach involves the therapist and perpetrator working together to recognise and address thought processes that contribute to the violence.[65] While shown to be beneficial to an extent, this approach has also been subject to some criticism on the grounds that it can fail to address the source of a perpetrator's 'dysfunctional' thinking.[66] Similar to psychoeducational approaches, cognitive behavioural therapy is based on the belief that violence is learned and therefore can be unlearned.[67]

Another suggestion is that, instead of attempting to change a perpetrator's understanding of their violence in order to change their behaviour, programs should target the impacts of cumulative trauma, adverse childhood experiences and toxic stress that may underlie violent behaviour.[68]

To address these criticisms, it has been suggested that cognitive behavioural therapy be embedded within a gendered, feminist-informed, framework so that the underlying structures that inform perpetrators' attitudes and behaviours are also considered.[69]

There are some who suggest that family therapy and couples counselling have a role to play as an alternative approach to group programs.[70] However, these types of approaches are generally considered unsuitable. Many family and couples therapists do not have the specialist understanding of domestic and family violence required to manage safety concerns. There is a tendency in these approaches to consider domestic and family violence as a consequence of a dysfunctional relationship with shared responsibility by both the perpetrator and victim, which can result in a failure to address the underlying dynamics of abuse through power and control. [71]

The Taskforce received submissions from people who had attended couples counselling in the context of the domestic and family violence they were experiencing, with some reflecting on it as a negative experience:

> The victim…had suggested marriage counselling many times as she had been seeing her own Counsellor for years trying to come to terms with what her marriage had become. [The perpetrator] finally agreed but every marriage counselling session just gave him new terms and ammunition he could use against her[72]

Different approaches focus on and respond to the circumstances of the perpetrator. For example, two programs trialled in Queensland focused on fathers who perpetrate domestic and family violence: *Caring Dads* and *Walking with Dads*. These programs have shown promising yet modest results. The 2019 evaluation of the *Walking with Dads* program showed mixed results but did indicate the need for tailored programs for perpetrators who are part of complex family systems.[73] The *Caring Dads* program evaluation, also in 2019, showed positive change for victims in terms of reduced violence and improved feelings of safety and family functioning, but some perpetrators benefited more than others.[74]

Other research revealed that *Caring Dads* had better impact on men who were still in a relationship with their children's mother (either as an intimate partner or in a shared parenting role) than men who were separated and had little contact with their children's mother.[75] The outcomes of these programs and evaluations should inform the development of future programs focused on fathers.

Increasing the diversity of perpetrator programs should include expanding the range of programs available so that different combinations of theoretical approaches are employed to better cater for different perpetrators.

Length of engagement with perpetrators

Perpetrator programs funded by the Queensland Government are required to be delivered weekly, for a minimum of 32 hours, and over a minimum period of 16 weeks, with each group limited to no more than 16 participants.[76] The Taskforce was unable to ascertain whether many programs exceed these minimum requirements,[77] however at least one program targeting high-risk perpetrators requires a minimum attendance of 27 weeks.[78]

The Taskforce heard that for perpetrators who have used violence and abuse their whole lives, shifting behaviour needs intense and sustained intervention.[79] For these perpetrators, 16 weeks of group work is not sufficient to effect meaningful change. [80]

The Taskforce was referred to the Caledonian System in Scotland as a promising model.[81] The Caledonian system is an integrated approach that combines a court-ordered program for men with support services for women and children. The program lasts at least two years including a minimum of 14 one-to-one preparation and motivation sessions, a group-work stage of at least 26 weekly three-hour sessions, and further post-group one-to-one work.[82]

Another model in Canada, designed for perpetrators whose partners want to maintain a relationship with them, involves 52 weeks of one-on-one therapy before commencing group work and a gradual transition back to having contact with their family, including transitional accommodation.[83]

Consultation with Queensland Corrective Services indicated that for high-risk and very high-risk offenders, evidence about changing behaviour associated with other forms of offending suggests that programs ranging from 100 to 200 hours are more likely to be effective.[84]

Currently, perpetrator programs offered in Queensland are inadequate. We note that in other jurisdictions, programs can run for up to 52 weeks.

With the exception of one unfunded program visited by the Taskforce that provided intensive support for Aboriginal and Torres Strait Islander peoples,[85] the engagement with a perpetrator is generally limited to the duration of the program itself. There is usually an assessment process before the start of the program; however the extent to which participants are engaged while they are on waiting lists appears to be limited. [86]

Furthermore, the extent to which perpetrators are engaged after the program, is limited. High demands on services result in limited capacity to undertake this pre- and post-program work. The Taskforce was advised that while there is 'high commitment/desire' on the part of services to engage program participants before and after programs, there is 'limited capacity overall, based on current funding and investment specifications'. [87]

Engagement with perpetrators before they participate in a program, coupled with remaining connected to the victim, may help perpetrators be ready and stay motivated once the program starts. It could also keep the perpetrators 'in view' before the start of the program, including while they are on a waiting list. [88]

The Taskforce has heard about the need to continue engagement after completion of a program, again coupled with ongoing connection with the victim through victim advocacy. This provides an opportunity for perpetrators to access support if their behaviour is deteriorating. Research suggests that post-program follow-up can be beneficial in reducing recidivism and further victimisation and supports a greater likelihood of longer-term change.[89]

The need for ongoing support for perpetrators was recognised in the 2020-21 annual report of the DFVDRAB, which recommended that there be consideration 'of the longer term support needs of perpetrators of domestic and family violence to embed ongoing behavioural change and improve protective outcomes for victims and their children'.[90]

The Board stated:

> …behavioural change for perpetrators takes time… there is a need for ongoing support over the longer term to help disrupt entrenched patterns of abuse.[91]

As part of the implementation of the Taskforce's recommendations, the diversity of perpetrator programs must be increased, including their length, and the engagement with perpetrators before and after the program.

A case management approach

Perpetrator programs should be tailored to meet the personal circumstances of an individual. Given the complexities surrounding perpetration, and the impact of intersecting issues on the likelihood of rehabilitation, there is a strong argument for a more holistic, person-centric approach to perpetrator intervention.[92]

> There is something wrong with the system when you see day in and day out the horrific abuse, control and trauma these behaviours create. And there isn't any holistic therapeutic support that is individually and family orientated.[93]

A multi-agency integrated response to domestic and family violence can increase the visibility of perpetrators and create a 'web of accountability'. It can also help provide tailored opportunities for behavioural change. This approach should be extended to involve case management of perpetrators where appropriate. Integrated service responses enable a more flexible response to the ongoing assessment of the victim's safety and the individual needs of a perpetrator to maximise victim safety, perpetrator accountability and opportunities for long-term behavioural change.

Many repeat and high-risk perpetrators fail to engage with perpetrator interventions or sustain regular attendance at behavioural change programs. When this occurs, contact with the perpetrator can be lost. Even during a crisis the capacity of perpetrator interventions to respond is far from guaranteed, especially if the perpetrator is transient or non-compliant with orders or referrals, but still finding ways to contact and coercively control the victim and their children.

Ongoing engagement with the system keeps perpetrators 'in view'. The Safe & Together™ model is an example of an approach that shifts the focus to the perpetrator, manages how the underlying causes of their behaviour can be addressed, and holds them accountable. Other case management models focused on high-risk perpetrators have also been recommended in the research literature.[94] The aim is to require perpetrators to be in view of the service and justice system through active compliance management. Greater visibility of the perpetrator can increase engagement and attendance at behavioural change programs, identify safety and offending risks earlier and increase compliance with orders and referrals.

> [T]here isn't any holistic therapeutic support that is individually and family orientated.[95]

Case management can address issues for a perpetrator that exacerbate their use of violence such as a lack of stable accommodation or, employment, drug and alcohol issues, mental health issues, poor parenting skills, and inadequate support networks. Reserving a case management approach for high-risk cases or repeat perpetrators who are not yet engaged in, or have disengaged from, the service system is a valuable investment that would decrease the longer term costs of violence.

A case management approach requires a lead agency or professional with authority and responsibility for a case plan for the perpetrator. This approach could be used to implement an intervention order made under the DFVP Act or as part of the recommended domestic and family violence diversion scheme. It could form part of a probation order or for a recommended post-conviction civil supervision and rehabilitation order when a perpetrator is sentenced for a domestic violence related offence or form part of a parole order.

Case management could also form part of a response with perpetrators identified through antenatal screening. Pregnancy and birth are times of high risk for victims of domestic and family violence. They are also times when victims and perpetrators are likely to have increased contact with mainstream service providers. Intervening early in the life of infants and children to prevent the significant harmful impact of domestic and family violence would be cost effective over the longer term.[96]

While additional resources are required for this type of intervention, there are likely to be longer-term savings to the service system as a whole and in terms of avoiding harm and trauma for victims. Studies have continuously shown that a small number of perpetrators are responsible for the majority of crime.[97] This is consistent with what the Taskforce has heard about the same perpetrators inflicting harm upon multiple partners and families over their lifetimes. While some of these perpetrators fall into a high-risk category and may be better dealt with through criminal sanctions and intensive supervision (chapter 3.9), other persistent perpetrators may be capable of change if provided with appropriate case-managed support.

A trauma-informed approach

A growing awareness of the impact of trauma has led to increased interest in trauma-informed approaches to both perpetrators and victims of domestic violence. Trauma-informed approaches have been used for people with substance-use disorders, sex offenders, prisoners and people suffering mental health disorders.[98] Studies examining adverse childhood experiences have noted that the more adverse events a person experiences, the greater the likelihood of them experiencing increasingly worse outcomes.[99] Adverse childhood experiences such as witnessing or experiencing domestic violence and parental substance misuse have been found to double the chance of domestic and family violence perpetration, victimisation and criminal propensity in adulthood.[100] More recent exposure to traumatic events, such as those resulting in post-traumatic stress disorder in veterans has also been identified as increasing the risk of domestic and family violence perpetration.[101]

> Specialist resources are also needed to facilitate group theory and practice sessions with perpetrators. These acknowledge and cater to men's differing behavioural needs, including through preventative and post-violence programs, particularly learned behaviours in cases where perpetrators have been child victims of family violence. [102]

There is a clear link in the literature between adverse childhood experiences and later victimisation or perpetration.[103] Taskforce submissions have also noted links between adverse childhood experiences and later domestic and family violence perpetration.[104]

Studies of adult perpetrators found the majority had multiple forms of adverse childhood experiences, including witnessing domestic and family violence and substance abuse within the family.[105]

Trauma can negatively impact the brain's cognitive functioning and a person's behaviour, including their ability to self-regulate or cope with conflict or stress.[106] If left unaddressed, it is likely that perpetrators (who have experienced trauma) participating in perpetrator programs may become overwhelmed, stressed or fearful of disclosing personal details and thus fail to participate fully in the program or successfully complete it.[107] Men may also have reduced impulse control, and increased aggressiveness as a response to trauma, along with negative views of the world, a lack of trust in others and feelings of powerlessness.[108] This feeling of powerlessness or loss of control may lead to the perpetrator using violence to gain some sense of empowerment within intimate or familial relationships.[109]

Trauma-informed care draws on knowledge of adverse childhood experiences and the way these shape an individual's worldview.[110] This model incorporates safety, trust, collaboration, choice and empowerment as a way of addressing the negative effects of trauma. It also builds a positive relationship between the perpetrator and facilitator.[111] Supporters of this approach explain that trauma-informed care is a necessary first step for effective engagement in perpetrator programs.

The strong link between adverse childhood experiences and later perpetration suggests that group programs may not be suitable for some perpetrators.[112] This may also be the case for perpetrators with cognitive disability, including when it is undiagnosed.[113] Case management approaches may provide greater opportunities for addressing violence and other issues that influence perpetration.

It is important that any of the approaches outlined above is coupled with an ongoing assessment of risk and connected to the victim's ongoing experiences.

Modes of delivery

Group-based programs are the most widely used approach to domestic and family violence intervention.[114] Group programs establish a 'safe space' for participants to open up about their experiences. Listening to the stories of others can enable participants to gain new insights into their own problems and can motivate and provide encouragement for others to change.[115]

Skilled facilitation is an important requirement for group programs to be successful. Skilled facilitators treat participants as equals, provide examples to guide discussion and 'tell it how it is'.[116] However, there are risks that need to be managed, including concerns about the potential of negative peer influence (for example sharing tips on effective tactics) and the group's capacity to focus on individual needs .[117]

It was clear from Taskforce consultation that, with the exception of programs for Aboriginal and Torres Strait Islander peoples, the homogeneity of the group-based programs did not meet the needs of all participants.

> No singular program will meet the needs of all perpetrators. There must be a range of perpetrator programs and responses, whether they be residential treatment, one-on-one case management or group work.[118]

There is a need to explore new and alternative modes for supporting all participants to engage in these programs meaningfully. The Taskforce heard of some that warrant further consideration, such as online delivery, residential programs, informal social programs, and mentoring.

Online perpetrator programs

Online programs could expand accessibility for people in remote communities where perpetrators may not be able to access face-to-face programs easily. They could be convened to bring together perpetrators with similar needs who are dispersed around the state. For instance, it may be beneficial to hold online programs for perpetrators in same sex relationships.

The Queensland Government has funded the Gold Coast Domestic Violence Prevention Centre to trial an online behavioural change program based on the Duluth model of practice. This program is being evaluated by Griffith University. Initial results show it is possible to deliver the 27-week format online with similar consistency to the in-person program; however, the program may not be suitable for some perpetrators depending on their access to stable internet connections and living arrangements.

No to Violence, which has also been involved in supporting trials of online programs, told the Taskforce that there had been mixed results to date, with further work needed to ascertain the benefits and explore options to manage risk.[119]The Taskforce has heard that it can be hard for a program facilitator to know where a perpetrator is and to monitor their behaviour when programs are delivered online.[120]

A review of 25 studies (including one study from Australia and New Zealand) examining the use of information and communication technology (ICT)-based programs found this format was effective for screening, victim disclosures and the prevention of domestic violence.[121] However, the review also noted limitations in outcome measures and differences across studies in terms of sample size, type of program, and failure to explore and identify unintended consequences of using ICT-based programs for addressing domestic violence.[122]

Despite the mixed results to date, there is an opportunity to cautiously explore online program delivery as a mechanism for providing programs across the state and during an ongoing COVID-19 pandemic environment.

Residential programs

During consultation, the Taskforce was referred to examples of residential models for perpetrators of domestic and family violence. *Breathing Space, a* residential service run by Communicare in two locations in Western Australia, has attracted some interest. The program involves a three-month residential program with intensive intervention, a community-based outreach for current or former clients of the program, advocacy for women and children (covering case management and safety planning), and managing co-morbidities of clients such as mental health and substance misuse, including through working with partner agencies.[123]

> the Salvation Army Australia 'strongly recommend[ed] that perpetrator intervention programs providing case management also provide access to emergency accommodation, as this allows victim-survivors the option of safely remaining in the home.'[124]

While the Taskforce recognises that residential programs are resource-intensive, there is a need to calculate the cost of future harm to women and children, and the criminal justice service systems. The Taskforce was not in a position in the time available to undertake these calculations, but considers that intensive intervention through residential facilities could form an important part of the suite of interventions, particularly for those perpetrators who have been convicted of a domestic violence-related offence.

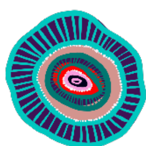
Other modes of delivery

The Taskforce heard examples of informal modes of engaging with community members to share information about the nature and impact of domestic and family violence, including in parks around barbeques and picnics.[125] These approaches have the advantage of overcoming some of the barriers of formal settings, and encouraging open discussions. When organised and facilitated by domestic and family violence practitioners with specific expertise, can provide an oopportunity for mentoring and help to develop supportive social networks outside of a formal program.[126] The Taskforce heard of this approach being used successfully with men from culturally and linguistically diverse communities as a promising approach for primary prevention and early intervention.[127]

Often technology is a platform for perpetrators to commit coercive control.[128] This same technology can be used to empower and protect victims.[129] Examples of innovation the Taskforce is aware of include:

- A pilot perpetrator program in Logan[130] that uses a theoretical framework that combines feminist informed practice with community redress by engaging perpetrators in gardening work[131] while learning about ecology and behavioural change processes.[132] Definitive results from this program are not yet available. Preliminary observations show that the outdoor setting may be supporting more truthful disclosures about the use of violence.
- International trials have shown promising results in the use of virtual reality to assist intervention with perpetrators[133] and help them understand the impact of their behaviour.[134] In Australia this technology has been used in prevention and training bystanders,[135] but not in intervention with perpetrators.[136]
- Some initiatives in criminal justice have used GPS tracking devices. There has been a simulated trial in Queensland with mixed results, which is consistent with the experience internationally that such initiatives require other safeguards to monitor perpetrator behaviour and victim safety.[137]
- While the Taskforce is not aware of any apps designed for behavioural change for perpetrators, smartphone apps are being used by women to support their safety in situations of domestic and sexual violence.[138] Currently the Queensland Government, in partnership with Telstra and Griffith University's MATE Bystander program, is developing an app to assist to identify and support victims and direct perpetrators to assistance.

Innovation in the use of technology to support perpetrator intervention and accountability remains under-explored but hold potential for expanding the range of service responses.



Programs for Aboriginal and Torres Strait Islander peoples

As discussed in chapter 1.2, the Taskforce acknowledges that while there are common drivers of domestic and family violence perpetrated by Aboriginal and Torres Strait Islander peoples (such as those derived from gender inequality) those drivers occur in the context of the intergenerational impacts of colonisation and ongoing systemic racism.[139]

In light of the different drivers, and an emerging body of research about 'what works',[140] there is a need for a differentiated approach to working with First Nations perpetrators of domestic and family violence.

There is a growing body of research that supports the need for First Nations-specific perpetrator programs. Researchers have also highlighted the importance of addressing the underlying complexities that contribute to the perpetration of domestic and family violence (discussed elsewhere in this chapter) including the need for therapeutic counselling, alcohol and other drug rehabilitation and mental health services.

> Perpetrator interventions are still under-researched, under-resourced and culturally inappropriate due to the focus on perpetrator accountability using a more rights-restrictive approach rather than on rights-promoting strategies that install the necessary supports and interventions required for real harm minimisation and healing.[141]

The need for a differentiated response is recognised in the Queensland Government's *Framework for Action – Reshaping our approach to Aboriginal and Torres Strait Islander domestic and family violence.*

As noted in chapter 1.2, the shortage of culturally appropriate programs for Aboriginal and Torres Strait Islander perpetrators has been raised by multiple stakeholders.[142] Consistent with the discussion throughout this chapter, there is a need for these responses to be provided across the spectrum of intervention – with primary prevention and early intervention an important part of this mix. It is important also to consider, in partnership with First Nations communities, how this mix of interventions translates into an Aboriginal and Torres Strait Islander context.

> Underlying the complexity of domestic violence sit a number of factors including intergenerational trauma and entrenched disadvantage…A holistic approach is required to address these issues including more culturally competent services and programs designed and delivered by Aboriginal & Torres Strait Islander people to their own communities.[143]

This applies also when conceptualising for perpetrator accountability. For instance, researchers exploring supports available to Aboriginal and Torres Strait Islander perpetrators of family violence in Mildura and Albury Wodonga (Victoria and NSW) identified three interconnected pillars of perpetrator accountability:

- systemic and institutional accountability: the responsibility of government authorities and non-government services and agencies to hold perpetrators accountable
- community accountability: the responsibility of Aboriginal community-controlled organisations (ACCOs), families and extended kinship groups, Elders, neighbours, men's sheds and community groups to hold perpetrators accountable
- individual perpetrator accountability, involving a long-term shift in individual attitudes and stopping violent behaviours.[144]

The Taskforce has heard about, and visited, a number of excellent services that provide culturally appropriate programs for Aboriginal and Torres Strait Islander men who perpetrate domestic and family violence. As discussed in chapter 1.2, these programs represented a departure from other perpetrator programs in these ways:

- a focus on health issues, fatherhood and family, respect, self-control and self-determination
- recognition of strength in connection to culture, extended family and community
- personalised case management and referrals to address underlying health and wellbeing issues
- diverse modes of delivery such as planned and unplanned home visits

- extended engagement, often beyond the official program duration - for example, follow-up visits for an indefinite period with some participants coming back to participate again.

Similar to other perpetrator programs, regular contact with victims and engagement with women's support services was used for ongoing monitoring of victim safety.

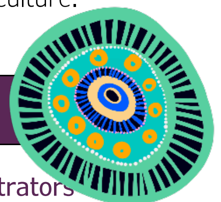
The Taskforce visited Yumba-Meta Limited, an Aboriginal owned and run organisation in Townsville, and heard about their Townsville Family Violence Support Service. Launched in October 2019, Yumba-Meta describe the program as an:

> *'early intervention program [which] aims to break the cycle of domestic and family violence in Aboriginal and Torres Strait Islander families by working with men, women and children – both perpetrators and victims – to modify behaviour and educate clients on their available options, navigate the legal system and access appropriate support'.*

The Taskforce heard about the trauma-informed, culturally-appropriate and case-managed approach provided, with most clients being referred by police through the police referral (Redbourne) system. The Taskforce heard that support was tailored to the needs of the client and offered:

- education about what domestic and family violence was (with many clients having normalised the abuse after coming from abusive families)
- support for perpetrators to understand domestic violence orders (illiteracy is common)
- links with other services (such as court support).

Key to the mode of engagement was making people feel safe to engage by providing more informal support initially to build trust. The Taskforce observed the strong position of Yumba-Meta, which provides a range of services including housing support and substance-abuse programs, to recognise and address the diverse needs of its clients using strengths-based approaches grounded in culture.



Recommendation 27

The Queensland Government ensure that the state-wide network of programs for perpetrators (recommendation 25) incorporates programs specifically tailored to meet the needs of Aboriginal and Torres Strait Islander peoples that embed a healing approach and are connected to culture, community and country.

These programs should be accessible through existing services accessed by Aboriginal and Torres Strait Islander peoples including health services and build upon strengths of successful programs being implemented by Aboriginal and Torres Strait Islander services.

Implementation

All programs and services for First Nations peoples must be designed by First Nations peoples, be led and delivered by the community, incorporate a healing approach, and be based on connection to culture and community. Accordingly, the implementation of programs for Aboriginal and Torres Strait Islander perpetrators should be tailored to meet the needs of each local community, embed a healing approach, and be strongly connected to culture. Shifting government investment in the domestic and family violence service system to community controlled organisations has been identified by the Taskforce as a key component of the strategic investment plan recommended in chapter 3.3. This must include investment in perpetrator intervention programs.

While there are a number of positive examples of perpetrator programs for First Nations peoples, they are not widely available.

The Taskforce also heard about promising innovative programs in other jurisdictions. For example, the submissions from the Prisoner's Legal Service and the Aboriginal and Torres Strait Islander Legal Service discussed the Maranguka Justice Reinvestment, a project initiated by a coalition of local Aboriginal leaders in Bourke, which has reportedly been successful in reducing recorded domestic violence. The project involves a range of non-carceral solutions to address the underlying factors that lead to domestic and family violence including:

- public health prevention programs
- education, job training and assistance in finding work
- adopting non-violent first responses to domestic and family violence, such as violence interrupters and early intervention 'circuit breakers' to break re-enforcing cycles of incarceration and community violence.[145]

The Taskforce heard from many stakeholders about the need for more culturally appropriate programs to draw on the strengths of culture and community connection to support Aboriginal and Torres Strait Islander perpetrators to change their behaviour.[146]

The Queensland Law Society highlighted the work of the Murri Court and the Community Justice Program in providing culturally appropriate supports and services to Aboriginal and Torres Strait Islander peoples who come into contact with the criminal justice system. Its submission suggested that Community Justice Groups should be resourced to refer families to appropriate services and case manage those referrals.[147]

Programs that respond to the diversity of perpetrators

Throughout consultations and Taskforce submissions, the lack of program diversity was a recurring theme.[148] This criticism has also been raised in the domestic and family violence literature.[149] As outlined in chapter 1.2, there are currently not enough perpetrator programs to cater for the needs of different population groups so that all people using violence and abuse, including children and young people, older people, LGBTIQA+ people, people from culturally and linguistically diverse backgrounds, and those with disability can access support to stop using violence and abuse.

The Queensland Government has acknowledged that people who experience marginalisation and discrimination in society experience domestic and family violence in unique ways, and often face additional barriers to support.[150] It also recognises that mainstream service delivery may not meet the needs of people experiencing intersecting disadvantage.[151]

> In the experience of our members, there are significant delays in accessing perpetrator and behavioural change programs. There is also a lack of variety in available programs. For example, there are very few culturally appropriate programs for Aboriginal and Torres Strait Islander men. The range of people affected by domestic and family violence is diverse and so available services should be similarly diverse.[152]

To address this gap in services, the Taskforce encourages the ongoing and proactive development of an evidence base for what works. This includes developing and implementing innovative and diverse programs that cater to the unique circumstances of Queensland's population.

Recommendation 28

The Queensland Government ensure that the state-wide network of perpetrator intervention programs (recommendation 25) includes an intersectional approach to meet the needs of people with disability, young people, people from culturally and linguistically diverse backgrounds and people who identify as LGBTIQA+ in urban, rural, regional and remote locations.

Perpetrator programs will have strong relationships and clear referral pathways with local drug and alcohol and mental health services.

Implementation

Programs for people living in rural, regional and remote locations

Queensland is a geographically diverse state[153] with the majority of people residing along the coastal fringes.[154] There are also significant populations living in rural, regional and remote areas of the state,[155] where access to services of all types can be difficult. Both the literature and death review processes recognise this is a significant barrier to accessing timely and appropriate support.[156] For some perpetrators, including those mandated to attend perpetrator programs, access remains a challenge.[157] Geographical challenges, coupled with long wait lists for perpetrator programs can mean victims remain at risk and perpetrators cannot access much needed support to change their behaviour.[158]

As discussed in chapter 1.2, stakeholders have noted the lack of programs available in regional and remote areas,[159] and the 'highly metro-centric' focus of existing programs which leave victims in regional areas more at risk given their geographic isolation.[160] This is exacerbated by workforce factors such as training, attitudes and localised responses.[161] As outlined in chapter 1.2, the tyranny of distance for people living in rural, regional and remote locations makes access to programs difficult.[162]

There needs to be a more equitable and strategic distribution of services and perpetrator programs that are culturally considered, tailored to the local context and accessible via multiple methods. Targeting investment in programs in areas with high rates of breaches of domestic violence orders must also be considered. For example, perpetrator programs that support behavioural change may be delivered in innovative ways such as with the use of technologies, telehealth-style services, face-to-face, and mentorship. One stakeholder suggested the use of voluntary live-in programs where accommodation is provided until completion of the program. Consideration of transport challenges should be included in any program development for rural, regional and remote locations to ensure support services located in neighbouring areas are readily accessible. These services must also be flexible and build upon relationships and alliances with professional and other community services located within the region to support development of the workforce.[163]

Programs for people with disability

The Taskforce heard that current approaches to perpetrator programs do not meet the needs of perpetrators with disability, particularly intellectual disability.[164] For instance, perpetrators with acquired or traumatic brain injury or cognitive disability require more specialist programs tailored to their needs.[165]

> Currently the options for perpetrators of coercive control who have intellectual disability have very few if any options for accessible men's behaviour change programs.[166]

Current perpetrator programs that aim to address behaviours by linking actions and consequences fail to recognise the challenges experienced by people with cognitive or intellectual disability.[167] These challenges include limited capacity to learn from experience.[168]

> A key issue that contributes to the criminalisation of disability is the lack, or perceived lack, of critical support services in the community. Courts and prisons are not therapeutic places where people with disability should or can be 'managed'; holistic community-based support is necessary to ensure there are genuine alternatives to criminalisation.[169]

To address difficulties faced by people with disability, there is a need to develop and deliver accessible and suitable programs that are trauma-informed and provide opportunities for meaningful engagement.[170] This may be achieved through a combination of increasing the capability of all services that deliver programs to identify and accommodate disability (extending the work begun under *Queensland's plan to respond to domestic and family violence against people with disability*) and the development of specialised programs for this cohort.

Programs for culturally and linguistically diverse people

There are currently very few programs that provide specialist support to perpetrators from culturally and linguistically diverse backgrounds. People from culturally and linguistically diverse backgrounds may have come to Australia with a range of experiences. Refugees resettling in Australia may have suffered past trauma through war, civil unrest, poverty and other hardships. As noted in chapters 1.2 and 3.3, this can create a range of barriers to accessing services. Given this, it is important that trauma-informed programs are accessible to address perpetration and support recovery from intersectional vulnerabilities. As Multicultural Australia points out:

> Working with male perpetrators from refugee backgrounds requires an understanding of violence in the context of refugee trauma and settlement challenges, and a need to work within refugee family and community structures[171]

Between 2006 and 2021, people who identified as culturally and linguistically diverse comprised approximately 13% of domestic and family violence related (both intimate partner and family) homicides in Queensland.[172] A lack of specialist services for them makes it hard for those brave enough to reach out and receive the support they need.[173] This highlights the need to ensure support services, including perpetrator programs, are available to people from these communities, so they can seek help early.

> There is room for resourcing specialist consultancy and advise services that can provide assistance to mainstream organisations supporting victims and perpetrators from CALD backgrounds.[174]

Initiatives for culturally and linguistically diverse peoples should not be limited to tertiary intervention. The Taskforce has heard encouraging examples of informal gatherings to support primary prevention by bringing together police, services and interpreters with culturally and linguistically diverse men to raise awareness of domestic, family and sexual violence.[175]

Women in these communities have called for greater information in language, not only for victims but also for perpetrators to become more informed of acceptable behaviour.[176] Women have also called for more workshops for men, led by men, to teach respectful behaviour and raise awareness about the importance of respecting women.[177] There are opportunities to work with community leaders and cultural experts to develop a wider range of options to support perpetrators (and potential perpetrators) to access the support they need to identify and change their behaviours.

Programs for LGBTIQA+ people

The prevalence of domestic and family violence and intimate partner violence in LGBTIQA+ relationships is unclear, particularly due to under-reporting. The available research, however, suggests that intimate partner violence occurs in LGBTIQA+ populations at least at similar levels to heterosexual and cis-gender populations.[178]

The gendered dimensions of domestic and family violence can disguise the fact that it also occurs in same sex relationships and is perpetrated by and against people who identify as LGBTIQA+. This impacts on detection, help-seeking and interventions for both perpetrators and victims. Service providers often lack awareness and understanding of the experience of domestic and family violence.[179] Such 'invisibility' has resulted in limited policy and practice responses in relation to domestic and family violence among LGBTIQA+ people. The Queensland Government has undertaken some activity to raise awareness of domestic and family violence among LGBTIQA+ people, including a community campaign[180] and the QPS LGBTIQA+ Domestic Violence Awareness Day.[181]

Domestic and family violence within LGBTIQA+ relationships challenges the predominant lens through which domestic and family violence is viewed, with patriarchal social structures and other drivers of domestic and family violence manifesting differently in these relationships. Researchers have suggested that concepts such as coercive control are useful for understanding the different dynamics as they emphasise patterns of power and control and non-physical forms of violence,[182] and 'transcend the boundaries drawn by sexuality and gender'.[183]

Furthermore, homophobia, transphobia and heterosexism, intersect with domestic and family violence and are central to understanding both perpetration of the violence and the impact of that violence in LGBTIQA+ relationships.[184] There is a diversity of experiences within the LGBTIQA+ community and these experiences intersect with other forms of marginalisation and discrimination.

While research into perpetrator programs is limited generally, this is particularly the case in programs for LGBTIQA+ perpetrators, and there have been calls for ongoing trials to build the evidence for what works.[185] As discussed throughout this chapter, there is a need for risk-managed innovation with robust monitoring and evaluation in order to build the evidence base for perpetrator programs, including for LGBTIQA+ people.

In expanding the services available for LGBTIQA+ perpetrators, there is a need for continued efforts to improve the awareness and capability of specialist domestic and family violence services and for specialist responses for LGBTIQA+ perpetrators to be provided.

Programs for female perpetrators

While the vast majority of perpetrators are male, women can also be perpetrators of domestic and family violence. As discussed in chapter 1.1, it is important to acknowledge that female violence towards men differs from male violence towards women in 'motivation, intent and impact'.[186] For many of these 'women who use force', it is in a context of violence and abuse perpetrated against them, with the force used to protect themselves and their children, to assert their dignity, or out of frustration with the abuse they are enduring.[187] Women who use force are generally attempting to gain 'short-term control over a situation, rather than an ongoing pattern of coercion and tactics of abuse which create fear and subjugation of a victim'.[188] As discussed throughout this report, the Taskforce has heard that women are too often misidentified as the primary perpetrators of the violence.

Perpetrator programs for women are required for these reasons:

- There is a need for programs to support women to address and change their violent or abusive behaviours.
- There is a need to ensure that women are also offered the opportunity to be diverted from the criminal justice system under the proposed domestic violence perpetrator diversion scheme (chapter 3.9).

An absence of programs for women who breach a domestic violence order would deny them the opportunity to complete a program prior to sentencing. It could be argued that this would be inconsistent with the obligation of the Queensland Government to protect the right to recognition and equality before the law.[189]

While the research into perpetrator programs is limited, the emerging evidence about the development of gender-responsive programs that account for the different drivers of domestic and family violence perpetrated by women and girls should inform program development. For example, women who use force are usually victims of domestic and family violence – either in current or past adult relationships, or childhood. Program design 'must acknowledge this victimisation and trauma history, while simultaneously facilitating awareness of viable non-forceful alternatives.'[190]

Integration with drug and alcohol and mental health services.

As discussed in chapter 1.2, the Taskforce heard that there is a need for programs that address underlying contributing factors in conjunction with the drivers of domestic and family violence.[191] Perpetrator programs generally operate in isolation from services addressing issues intersecting with domestic and family violence, such as mental health, drug and alcohol misuse, unemployment, poverty, and housing insecurity.[192] The Taskforce notes the recent, though limited, research into trials of combined interventions as a potential avenue to strengthen existing programs.[193]

> Existing offerings do not adequately address other factors which may be relevant to domestic and family violence including mental illness and drug and alcohol addiction.[194]

The co-occurrence of domestic and family violence and intersectional issues has also been identified by the DFVDRAB.[195] In the latest analysis of domestic homicide/suicide deaths in Queensland between 2017 and 2020, more than half (57.6%) involved excessive alcohol or drug use by the perpetrator.[196]

> Effective engagement in programs can be more difficult where there are other factors at play such as mental health issues, addiction and job or housing insecurity. Perpetrators must be supported by other tailored supports, including drug and alcohol programs or mental health programs. [197]

Tailoring programs to better address the needs of perpetrators is likely to improve outcomes.[198] It is time to move away from a one-size-fits-all approach, which may in fact, be counterproductive to overall change.[199] There is a need to account for individual perpetrator characteristics which are the strongest predictors of recidivism.[200] While there are many different intersecting issues that can contribute to why and how a person perpetrates violence and abuse (such as poverty, unemployment, marginalisation, past trauma) and the severity of that violence, the two issues heard most frequently by the Taskforce were substance abuse and poor mental health.

The DFVDRAB has also reflected on the need to continue to improve understanding across the whole-of-service system about the nature and impact of domestic violence and to better equip services and professionals to identify and respond to its complex and intersectional nature.[201]

The Taskforce has heard from many stakeholders about the co-occurrence of domestic and family violence and substance abuse. As discussed in chapter 1.2, while it is important to note that the misuse of alcohol and other drugs does not cause domestic and family violence (many people who misuse alcohol and other drugs do not perpetrate domestic and family violence), it is a contributing, or 'amplifying'[202] factor. It is also used by perpetrators in the way they abuse and control victims (examples are provided in chapters 1.1 and 1.2).

Targeting alcohol use by perpetrators and victims, when coupled with domestic violence intervention programs, may reduce violence against women.[203] Research in this area is limited with further trials to establish the best approach required. This includes comparing different known approaches:

- serial treatment (treating substance abuse before acceptance into a perpetrator program)
- parallel treatment (simultaneous programs to address both issues)
- coordinated (communication between both service providers
- integrated (both treatments provided by same agency).[204]

A recent Australian study of group-based interventions to address domestic violence and substance use found promising results for coordinated (or combined) interventions.[205]

Alcohol and other drug programs, when they are equipped to address domestic and family violence, may also provide a less stigmatising avenue for perpetrators to seek help to address their use of violence and abuse.[206] Innovation and evaluation in this area would be a valuable investment likely to yield positive results for the safety of victims and the prevention of harm.

As discussed in chapter 1.2, the failure of service systems to provide domestic and family violence informed responses to perpetrators with mental health concerns has contributed to devastating and deadly consequences for victims. The non-coronial inquest findings of Ms Karina May Lock and Mr Stephen Glenn Lock[207] and Ms Teresa Bradford and Mr David Bradford[208] noted concerns in relation to aspects of the mental health service response, particularly in relation to assessment of risk.

The Taskforce heard about the limited options available for judicial officers where there were clear mental health concerns about the parties appearing before them. On the other hand, the Taskforce also heard positive accounts from the Mental Health Commissioner about early intervention and diversion programs that target offenders in court.

There is a need for mental health practitioners to be better informed about domestic and family violence, including coercive control. There is also a need for domestic and family violence workers engaging with perpetrators to work more closely with mental health services to establish clear referral pathways and a shared understanding of risk assessment and management. This will facilitate an improved approach to managing both domestic and family violence and mental health issues in a way that has a primary focus on victim safety. In chapter 3.3 the Taskforce makes recommendations about service integration and coordination, risk assessment, training and education. The implementation of these recommendations must include health, mental health, and drug and alcohol services and practitioners.

Risk assessment and safety management

To support increased diversity of perpetrator programs (so that programs can respond to the needs of individual perpetrators while remaining focused on victims), robust risk assessment and management processes are needed to better identify which perpetrator intervention is appropriate for whom and when. [209] This assessment should support the level of intensity of the program, tailored to the level of risk of re-offending posed by the perpetrator, their rehabilitative needs, and delivery that conforms to 'a style and mode that is commensurate with the perpetrator's ability and method of learning'.[210]

As discussed in chapter 3.3 there is a need for a common overarching approach to risk and safety management. The use of different approaches across the system creates inefficiencies and limits integration across different parts of the system.

An overarching framework would support the assessment of risk to enable targeted interventions with perpetrators for different levels of risk, criminogenic needs, and protective factors.[211] For example, high-risk perpetrators could receive high intensity programs involving extended face-to-face contact and case management, with the program tailored to address substance abuse, financial stress, or other relevant factors.[212] It should also enable the identification of broader needs.

The approach to risk assessment should support prompt referral pathways to limit the time between occurrences of violence and the start of the intervention.

Ongoing risk assessment for safety management and accountability

Regardless of the level of risk of harm and safety for a victim identified at a single point in time, this risk can change rapidly and often.[213] The ongoing assessment of risk is critical for identifying escalating behaviours and risk level for a victim.[214] This includes a need to routinely screen and assess the risk associated with perpetrators who are involved in the criminal justice and service systems.[215] Routine screening will enable service providers to develop safety plans for the victim and their children, determine perpetrator risk, and intervene early to reduce the likelihood of harm.[216]

Recommendation 29

The Department of Justice and Attorney-General ensure that services case-managing perpetrators or delivering perpetrator programs undertake a comprehensive assessment of risk (recommendation 21) throughout the engagement with a perpetrator.

At a minimum this should include risk assessments being undertaken, initially to identify appropriate interventions suitable for an individual, again during engagement to inform appropriate delivery of interventions and monitor victim safety, and again after completion of a program to ensure ongoing victim safety and contribute to the evidence base about what works for perpetrator interventions.

The requirement could be included in practice standards for perpetrator interventions.

Implementation

As discussed in chapter 1.2, perpetrator programs must stay connected to the victim's experience through victim advocacy. This is an essential part of risk assessment and safety planning and helps to prevent collusion. The Perpetrator Intervention Services Requirements,[217] which set program standards in Queensland, mandate that services engage a victim advocate (either internal or external to the service) to enable risk assessment and safety planning, information sharing and referrals. The requirements specify when this contact is to occur:

- after initial assessment of the perpetrator and before the perpetrator starts the program
- after the second session of the program
- throughout the program as required by risk, need, and victim's desire for contact and support
- after the perpetrator leaves or completes the program.

The quality of this vital partner-contact work depends, in part, on available resources. The Taskforce heard that there was variability in practice and quality of this highly demanding role, which is not always adequately resourced. The Taskforce notes that the recently introduced Regulatory Framework may assist, through auditing processes, to improve consistency in this essential component of perpetrator programs.

Drawing on perpetrator risk assessments completed over time will support evaluation of the effectiveness of interventions for particular perpetrators, filling a significant gap in current data collection. Services delivering perpetrator programs must be required to align their risk assessment and safety planning processes to a common framework for understanding and assessing risk (chapter 3.3).

Growing the workforce to meet demand

The Taskforce has heard that there is a significant and urgent need to address shortfalls in the recruitment, retention, and upskilling of staff across the service system.[218] Increasing the availability and accessibility of perpetrator programs is not as simple as just funding more perpetrator programs because there is not a sufficient workforce of appropriately qualified and experienced practitioners available to deliver the programs.[219]

This is exacerbated by more widespread challenges in recruiting and retaining workers in rural, regional, and remote areas of the state. The need to grow, retain, and develop the workforce has also been noted in state-wide consultation undertaken by WorkUp Queensland.[220] The Queensland Law Society said:

> QLS recommends the Taskforce consider the structures and resources that will be necessary to improve availability and timely access to perpetrator intervention programs. Consideration should be given to the capacity and capability of current systems to support effective models of perpetrator interventions. [221]

Recommendation 30

The Queensland Government work in partnership with the recommended integrated peak body for domestic and family violence services (recommendation 17) and service providers to develop and implement strategies to assist them to attract, recruit and retain a skilled workforce to deliver domestic and family violence perpetrator programs across Queensland with a particular focus on rural, regional and remote locations.

This will be done in collaboration with an integrated peak body for the domestic and family violence service system (chapter 3.3) and with service providers that provide services and supports to perpetrators.

Implementation

The establishment of a state-wide network of perpetrator intervention programs will need more skilled practitioners to deliver new and expanded services. Non-government service providers, supported by the recommended peak body for domestic and family violence services and government, will need to identify avenues to upskill, train, and recruit a sustainable and adequate workforce to deliver new and enhanced services.

The Taskforce has heard that service providers are currently struggling to recruit and retain skilled workers. As the availability of services expands, additional skilled practitioners will be required. This may include strategies for attracting people from outside the domestic and family violence sector to undertake training and gain the necessary experience to create a pipeline of skilled practitioners to deliver perpetrator programs.[222] It may also include interstate recruitment to boost the number of senior facilitators and other practitioners to support an expanded workforce.

These strategies will also need to consider the availability and distribution of appropriate training programs, and work with the private sector to ensure quality programs are available in the quantity required to support the skilling of the workforce. Embedding a professional culture of continuous improvement will be important. An increase in investment for training across the service system may be necessary for creating a sustainable workforce. This training must be to a high standard and accessible to specialist and generalist services:

> There is very little foundational training for [perpetrator program] practitioners available across Australia... Further, this training is rarely taken up by practitioners working outside of the specialist [perpetrator program] sector.[223]

Expanding availability and access to perpetrator programs will create additional demand for victim support in order to undertake the required victim advocacy work. As discussed in chapter 1.2, the domestic and family violence service system is already facing considerable demand, and the filling of new positions to undertake victim advocacy work will also require workforce planning.

As of 1 January 2022, facilitators and victim-advocates working in perpetrator programs funded by the Queensland Government will be required to meet minimum levels of qualification and experience. The Taskforce is encouraged by this move to set standards to improve consistency and provide clarity about the minimum requirements across perpetrator programs. This will be an important foundation on which to grow an appropriately qualified workforce.

The requirements also outline the need for equitable recruitment to ensure Aboriginal and Torres Strait Islander peoples and people from culturally and linguistically diverse backgrounds have equal access to positions within the program. Strategies should include a specific focus on increasing the diversity of the workforce.

> In terms of services, a lack of cultural knowledge or even respect for diversity, of a representative workforce, as well as limited specialist CALD services, can impact community help-seeking behaviours.[224]

Human rights considerations

As outlined elsewhere in this report, the impacts of coercive control represent a breach of a victim's right to life (section 16) and protection from torture and cruel, inhuman or degrading treatment (section 17). Under the Human Rights Act, the Queensland Government has a positive duty to protect citizens against this treatment. Furthermore, the right to security of the person (section 29) concerns 'freedom from injury to the body and the mind, or bodily and mental integrity.' It places a positive obligation on the State to take appropriate measures to prevent future physical and mental violence to individuals, including domestic and family violence carried out by private individuals.[225]

The development of a whole-of-system approach to perpetrator intervention and behaviour change, and increasing the availability of perpetrator programs, would protect and promote rights under the Human Rights Act. These actions would be consistent with the positive obligation on the Queensland Government not just to respond to domestic violence and coercive control, but to take appropriate measures to prevent this violence occurring in the future.

All Queenslanders have the right to recognition and equality before the law (section 15). This includes the right to enjoy human rights without discrimination, including by having their rights protected equally regardless of their location. An increase in the availability of perpetrator programs and the equitable distribution of perpetrator programs across metropolitan, regional and remote Queensland will promote this right. Additionally, the increase in perpetrator programs tailored to the needs of Queensland's diverse population is consistent with the protection of this right.

The mandatory requirement for some perpetrators to attend perpetrator programs as a condition of a court order or parole conditions could be considered to limit a perpetrator's human rights.

As discussed in chapter 2.1, these limitations can be justified in accordance with the Human Rights Act[226] by being a necessary and proportionate response to achieving the protection of the human rights of victims, and potential future victims of domestic and family violence.

Timing

As a fundamental component of strengthening the existing service system response to coercive control, the Taskforce is of the firm view that expanding the availability and accessibility of perpetrator programs should occur as a priority and before the commencement of the proposed new coercive control offence.

To achieve this, however, there is a need to ensure that there is a pool of qualified, skilled practitioners and victim-advocates across the state. Urgent attention is needed to develop a pipeline of workers for the short, medium and long-term to support the implementation of legislative reforms across the recommended four-phase implementation plan.

Increasing the availability and accessibility of perpetrator programs across the state will require significant additional investment from government. The rollout of a state-wide network of perpetrator intervention programs will increase demand in other parts of the service system, including for victim advocacy as a critical part of perpetrator interventions. This may in turn, lead to increased demand for services and supports for victims and children. The allocation of resources will need to factor in these broader impacts and form part of the domestic and family violence system strategic investment plan (chapter 3.3).

The evidence base for what works in relation to programs for perpetrators continues to emerge. There are important principles around victim safety that should inform this work, including the need to engage victims before and during perpetrator programs and to assess risk regularly. Programs based on what we know now need to be expanded across the state. New approaches should be trialled and tested, and following robust monitoring and evaluation, successful elements rolled out. Investment must include adequate resources to measure, monitor, and evaluate outcomes to advance this area of research and continue to build the evidence base.

Providing support to victims of domestic and family violence is, and will continue to be, critical. But without effective measures to hold perpetrators to account and support them to take responsibility for and address their abusive and violent behaviours, the system will continue to provide mere band-aid solutions for harm already caused. A shift towards earlier intervention with perpetrators in ways that respond to their unique needs and underlying drivers of their behaviour will reduce the demand for tertiary interventions, and most importantly, prevent harm from happening in the first place.

Alongside the financial savings, actively preventing men's violence against women and children reduces the huge human toll that encompasses trauma, ill-health, reduced social participation, injury and death.[227]

Program quality assurance and practice standards

As outlined in chapter 1.2, a regulatory framework for the domestic and family violence service system, operationalised through the Human Services Quality Framework, marks a significant step in achieving the Queensland Government's aim to have practice consistency in the service system. The new framework will promote improvements across the sector to enhance victim safety, perpetrator accountability and service integration across Queensland.[228]

Services that deliver perpetrator programs are included in the regulatory framework, with the revised practice standards for the domestic and family violence sector which came into effect on 1 January 2021, replacing the previous *Professional Practice Standards: Working with men who perpetrate domestic and family violence.*

Specific *Perpetrator Intervention Services Requirements*[229] are also contained in the investment specifications[230] for domestic and family violence services and will come into effect in Queensland from 1 January 2022. These set out a range of requirements in relation to specific features of group programs including:

- group readiness
- duration of group programs
- maximum number of group participants
- gender of co-facilitators
- qualification and experience requirements of facilitators
- role, qualification, experience, frequency, and duration of a victim-advocate
- role, experience, and frequency of an observer.

The Taskforce welcomes these developments and the intention to bring increased consistency of quality for all services. It is too early to determine whether these mechanisms in their current form are effective. They will, however, be key to implementing the changes in approach outlined in this chapter.

The regulatory framework will require a review to ensure it adequately supports the delivery of perpetrator intervention programs to address coercive control and the implementation of recommendations throughout this chapter and report.

Evaluation

The literature on perpetrator intervention identifies coercive control as one of the more stubborn behaviours to change, requiring sustained treatment and follow-up.[231] Additionally, there are gaps in the literature about how intervention can best address perpetrators use of coercive control. A rigorous approach to measuring, monitoring and evaluating the impact of perpetrator interventions, including perpetrator programs, is required. While there is an increasing amount of research across Australia and internationally about interventions for perpetrators of domestic and family violence, there is still a long way to go and an urgent need to contribute to the evidence base for determining what programs are most effective for different populations of perpetrators. [232]

The collection of data to measure outcomes

To monitor and evaluate perpetrator programs and other interventions effectively, data collection is required with clearly defined measures and shared definitions and understanding of the problem. [233] Data from multiple agencies and services should be used, where possible, to cross-reference and triangulate findings to better identify perpetrator and victim outcomes.[234]

There is limited information currently available to government about outcomes of perpetrator programs. The data required to be reported by services delivering perpetrator programs is currently focused on outputs (for example, number of hours of programs provided) or throughput (for example, numbers of service users) but is limited in the ability to measure victim safety and behavioural change.[235] There is currently no requirement for services to report to government on waitlist times or on completion rates. [236] A breakdown of data is also not available to understand the diversity of people participating in perpetrator programs.

The Taskforce understands that reporting requirements are currently under review and that work is underway to strengthen data collection and more meaningfully measure the impacts of the domestic, family and sexual violence service system, including through a shift away from output data.[237] See chapter 4.1 for further discussion of measuring, monitoring, and evaluation of data across the service system.

This important work is well overdue, particularly in relation to perpetrator interventions, where there appears to be a considerable deficiency in information available, even compared with the recognised lack of data about domestic and family violence more generally.

Evaluating perpetrator programs

There is some disagreement among researchers about what should be considered 'success' in perpetrator programs. Some suggest that this research has narrowly examined only the reduction or elimination of 'incidents of *physical* violence'.[238] As discussed in chapter 1.2, this focus on recidivism fails to address levels of fear in women, including whether they are continuing to be subjected to coercive control.

Current measures of the effectiveness of perpetrator interventions most often rely on perpetrator self-disclosures and the evidence of police reports and victims' self-reports of physical violence. Whereas victims' experience of safety and sense of autonomy are more likely to be indicators of the presence or absence of coercive control. The behaviours are experienced as a pattern over time, and the context in which this occurs is influenced by a level of subjectivity. Therefore addressing coercive control in perpetrator interventions is more challenging because of its insidious nature and the tendency for it to be used to 'gaslight', conceal, and normalise acts of control and intimidation.

There may be other less apparent measures of success brought about by perpetrator programs. For example, they may play a role in:

- linking victims to support services
- facilitating better risk assessment of perpetrators
- (if case management approaches are taken) reducing contributing risk factors such as mental health issues, alcohol or other drug abuse.

It is also important to consider the need for a differentiated understanding of concepts such as 'success' and 'effectiveness' of programs for Aboriginal and Torres Strait Islander peoples. Given the variations of the drivers of violence by First Nations perpetrators, it may be appropriate to have a separate set of outcome measures that frame success and effectiveness for these programs.

In evaluating perpetrator programs, their role in the overarching system response needs to be clearly articulated. As outlined in this chapter, the Taskforce is of the firm view that perpetrator programs are only one of a suite of interventions for perpetrators, and the evaluation of perpetrator programs needs to reflect the role they play as one part of this system. Clarifying the role of perpetrator programs as part of the articulation of a system-wide approach to perpetrator accountability will be an important in achieving this.

There is limited research into perpetrator interventions in Australia. If the Queensland Government increases funding of perpetrator interventions and programs, it is also important to fund the evaluation of these programs. Studies require large populations and program comparisons over time to better understand how best to develop sound intervention programs. These evaluations need to not only assess whether the desired outcomes were achieved, but also which components of the program assisted in achieving those outcomes.[239]

Conclusion

In this chapter, the Taskforce has discussed and set out a framework for the expansion of perpetrator intervention programs across the state. This is a critical priority to keep victims safe and to support the implementation of the Taskforce's recommendations for legislative reform. Queensland's approach to perpetrator accountability and behavioural change must prioritise victim safety and be responsive to the different levels of risk posed by perpetrators, perpetrator support needs, and to their differing levels of readiness to engage.

Queensland needs a state-wide network of perpetrator intervention programs incorporating a public health approach, encompassing:

- primary prevention to provide information, education, and support that everyone can access
- secondary supports that are targeted to those perpetrators who have used violence in their relationships and want to engage in change
- tertiary interventions targeting those perpetrators who are involved in the criminal justice system and for whom more urgent and intensive responses are required.

This includes population-wide measures to prevent the perpetration of domestic and family violence and opportunities to intervene early with perpetrators who seek help for their own problematic behaviour.

A diversity of programs is required including different types of programs across different delivery modes that incorporate an integrated service system response and case management, where appropriate. Programs and interventions must be able to meet the needs of different population groups. In this way, all victims can stay safe because perpetrators (including children and young people, older people, LGBTIQA+ people, people from culturally and linguistically diverse backgrounds, and those with special needs) can access support to stop the violence and abuse.

Programs must be available and accessible across Queensland that meet the needs of Aboriginal and Torres Strait Islander peoples. These should be designed by and for First Nations peoples, community led and delivered, incorporate a healing approach, and be based in connection to culture and community.

To support the expansion of perpetrator interventions across the state, there needs to be a skilled workforce. These professionals must be supported through a process of continued learning and improvement to incorporate and contribute to the emerging evidence base relating to perpetrator interventions.

Perpetrator programs must embed victim advocacy and regularly assess the ongoing risk to a victim. Risk assessment processes for perpetrator programs must be undertaken regularly to identify which type of perpetrator program and mode of delivery is most likely to be effective for a particular perpetrator and at the same time protect the victim. Risk assessment and victim advocacy must continue to be a key component of perpetrator intervention to ensure this engagement with the perpetrator sufficiently manages risk for the victim.

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Chapter 3.5

Improving police responses

The Queensland community should have confidence that the Queensland Police Service will respond appropriately to the patterned nature of domestic and family violence, including coercive control, and will consider the context of a relationship as a whole. While the QPS has made commendable efforts recently to train police and improve practice, its response to domestic and family violence still falls short of public expectations.

> It is important that officers understand that resistance to providing information or statements is not a sign of time wasting or being difficult, and that a survivor is weighing up the repercussions of police involvement — and that ultimately the fear of the perpetrator far outweighs anything the police could possibly do.[1]

Chapters 1.3 and 2.2 of this report outline the Taskforce's concerns about the Queensland Police Service's (QPS) current response to domestic and family violence. The Taskforce has identified significant aspects of policing that bear on victim safety and human rights. Overall, the Taskforce has found current policing approaches and responses must get better at:

- identifying domestic and family violence
- responding to victims' experiences
- holding perpetrators to account.

The Taskforce acknowledges that the QPS has a heavy and growing domestic and family violence workload and has implemented promising structural responses by:

- establishing the Domestic, Family Violence and Vulnerable Persons Command
- implementing training for police officers
- reviewing risk assessment tools and processes.

These initiatives are commendable and should continue and be supported. Yet, victims and stakeholders have told the Taskforce many disturbing stories of police turning away victims or misidentifying them as perpetrators. As outlined repeatedly in this report, we have found that the QPS needs to do more to improve the quality of its policing responses. Our core concern is that widespread and harmful attitudes in the service culture are undermining the efforts of operational initiatives. Such attitudes must be investigated and rebutted to ensure the initiatives achieve their intended outcomes. This is discussed further in chapter 2.2, where the Taskforce recommends the establishment of a commission of inquiry (recommendation 2). The recommendations in this chapter are intended to operate harmoniously with that recommendation.

In this chapter, the Taskforce discusses and makes recommendations concerning:

- addressing harmful culture, values, and beliefs that are widespread across the QPS and are undermining the successful implementation of leadership efforts to improve responses to domestic and family violence
- addressing the need for increased knowledge and expertise to improve the capacity and capability of the QPS to respond to domestic and family violence across the state
- addressing the need for additional ongoing training and education, and embedding learning outcomes from training already in place so that the focus of police response shifts from only examining incidents of physical violence to including patterns of violence over time in the context of a relationship as a whole. This will help to reduce the misidentification of victims, minimisation of non-physical abuse, and ensure victims are believed and supported
- enabling victims to feel that they can make a complaint about a police officer, confident in the knowledge that the QPS will handle the complaint openly and accountably
- embedding the police response as part of an integrated and coordinated service system to improve outcomes for victims and hold perpetrators to account.

This chapter includes recommendations for transformational change across the QPS in its approach to domestic and family violence. The Taskforce also recommends building capacity and capability within the Domestic, Family Violence and Vulnerable Persons Command and the organisation as a whole to improve how domestic and family violence is identified, responded to, and investigated.

To embed this shift towards responding to patterns of behaviour over time, as opposed to single incidents, the Taskforce recommends:

- reviewing operational policies and procedures and ongoing training
- developing consistent and aligned risk assessment tools and processes.

Transformational change

The QPS has developed and implemented significant reforms, particularly since the release of the *Not Now, Not Ever* report in 2015. These reforms include efforts to change culture and attitudes through training and education, additional investment, collaboration, and process reforms.[2]

The Queensland Police Service Strategic Plan 2021–2025 states that the organisation is committed to embracing new ideas and innovation to prevent, disrupt, respond to, and investigate crime. It also aims to protect the legitimacy of policing through fair and ethical service delivery. This will be measured by an increase in public perception of police honesty and fair and equitable behaviour.[3]

The Taskforce heard from hundreds of people with lived experience of domestic and family violence and coercive control about their experiences with police (chapter 1.1 and 1.3). While some of these submissions described responses that were supportive and empowering for victims, the majority did not. Instead, they highlighted themes of poor police culture, negative beliefs related to women and domestic and family violence, 'real victim' stereotypes, and a lack of cultural capability and understanding of coercive control by some QPS employees.[4]

There is a long-standing mistrust of police within some communities in Australia. Reasons for this include:

- historic and ongoing practices
- recent experiences of refugee and migrant communities fleeing hardship in their countries of origin
- perceptions of racism and cultural exclusion.[5]

This mistrust can make community–police relations difficult. Submissions also highlighted that when police officers wrongly identify victims as perpetrators of domestic and family violence, this does nothing to establish trust.[6]

In addition, a disturbing theme from the Taskforce's consultation is the belief that many officers tarnish the QPS culture by:

- showing leniency towards domestic and family violence behaviours, which leaves victims unprotected and perpetrators unaccountable
- rendering training in domestic and family violence ineffective by attitudes that undermine its value
- covering-up other police officers' misbehaviour.

If such officers are promoted, there is a high risk that they will seriously undermine domestic and family violence responses.[7]

The Taskforce appreciates that the QPS is undertaking significant internal work to implement multiple actions and initiatives to respond to domestic and family violence. The QPS has focused on areas of improvement to operational practice, tools, and procedures. However, these initiatives, overall, have not delivered outcomes that have instilled confidence in victims of coercive control. If this were the case, the Taskforce would expect a smaller proportion of submissions highlighting concerns about police responses to domestic and family violence. The Taskforce's extensive consultations with stakeholders (whose day-to-day work involves supporting domestic and family violence victims) would also have revealed fewer concerns.

The Taskforce feels that there is a risk that the QPS's current initiatives to improve the police response to domestic violence will only have short-term benefits. As noted in chapter 1.3, a widespread negative culture in the police service undermines any chance of meaningful change.

The Taskforce recognises that a negative culture towards victims of domestic and family violence is also present across the community. However, police are entrusted with powers and responsibilities that others in the community do not have. Victims of domestic violence look to the police to keep them safe. The Taskforce has observed that a negative police culture has a direct impact on victim safety. For example, the deep-rooted beliefs of some police (as reported by victims in their submissions) can cause them to fail to prioritise adequate investigation and response to domestic and family violence. Without significant transformational change across the QPS, this situation is likely to remain.

The Taskforce's work and representations present a turning point for the QPS to shift its focus to longer-term, more sustainable outcomes that will deliver significant cultural change. This includes embedding learnings into the delivery of improved outcomes for victims and perpetrators.

As noted by the North Queensland Domestic Violence Resource Service:

> Knowledge about the gendered nature of domestic and family violence is a large aspect of this, a shift away from women as being manipulative and vindictive and within a Policing context knowing what coercive control can include and constitute. Overwhelmingly, women communicate that their stories and experiences of coercive control were dismissed or that they were not believed or made to feel that this was not serious. This comes down to a wider societal attitude about what a 'victim' looks like.[8]

The Taskforce also recommends the establishment of an independent commission of inquiry to support the QPS to make this cultural shift (chapter 2.2).

Addressing QPS cultural attitudes, beliefs, and values

Policing is a highly demanding and diverse function, with officers frequently exposed to traumatic and volatile situations. The effects of ongoing exposure to these situations suggest those working in fields such as policing can experience 'compassion fatigue' and 'vicarious trauma'.[9] Both can negatively affect how the person views the world and the people in it. For some police, this may result in feelings of mistrust towards a victim or perpetrator. They may become less objective in their response to domestic and family violence.[10] A sense of futility may accompany these feelings. Officers may come to believe that, regardless of what actions they take, the results will be the same.[11] This, in turn, negatively infuses organisational culture as well as individual police attitudes and beliefs.

The Taskforce has heard about the increasing number of domestic and family violence 'incidents' police have responded to in recent years. The number has steadily increased over the last 10 years from 2011 to 2020. In 2020 alone, the QPS responded to more than 107,000 domestic violence occurrences or roughly 293 occurrences a day, an 8.6% increase from 2019.[12]

These figures are useful for understanding fluctuations in rates of domestic and family violence over time, and they demonstrate the increasing workload of the QPS.[13] (Bear in mind that these increases are also experienced by non-government service providers, the justice system, and the courts.) The Taskforce cautions, however, that they tell only part of the story. Reporting primarily on issues in terms of occurrence or incident rates removes context from ongoing and patterned forms of violence that occur in a relationship as a whole (this context is needed to understand the dynamics of violence and abuse and gain insight into victims' experiences).

The QPS has advised the Taskforce that matters relating to domestic and family violence represent 40% of the QPS's overall workload.[14] This increasing demand impacts not only the organisation as a whole but also the day-to-day workload of individual officers. It also affects the quality of the response police can provide in each case. However, this increasing demand does not justify or excuse the widespread harmful cultural issues raised by victims in their responses to the Taskforce. Addressing demand and workload should not be the primary focus of the transformational plan.

The QPS has publicly identified the need for cultural change. In media reports from early this year, after the tragic death of a young mother in April 2021, the QPS announced that it would review its handling of domestic violence cases.[15] At the time, media reports quoted Assistant Commissioner Brian Codd saying, 'there's a cultural issue we all have to own', purportedly referring to police and the broader community.[16]

Submissions to the Taskforce have suggested that police need greater support to counter misconceptions of victims of domestic and family violence. This should include support to address issues of gender, race, and ableism. Police need to be supported to tailor responses to address the needs of victims whose experiences are shaped by multiple or overlapping factors of gender, race, and ableism (for example, Aboriginal and Torres Strait Islander women with disability). Given police are the gatekeepers to the criminal justice system, these stories raise concerns about equal access to and equal treatment before the law. As noted elsewhere in this report, the impacts of police culture can have detrimental consequences for victims of domestic and family violence. This is even more pronounced for victims experiencing additional intersecting complexities (such as mental health problems along with problematic alcohol and drug use).

The Taskforce heard multiple concerns across locations about inadequate responses when victims sought police help at the station front counter. Noted also were inadequate responses from middle-ranking officers as well as frontline police. It is true that in many of these locations, there were also examples of positive police responses. However, given the wide range of negative feedback across the state and the high level of concern expressed, it is evident that widespread cultural reform is needed across the whole of the QPS.

When the Taskforce refers to widespread cultural issues within the QPS, it is referring to the breadth and depth of individual and organisational values that influence organisational dynamics, structure, language, beliefs, and views of the outside world.[17] Some aspects of culture are overt and clearly linked to the role of an organisation, while others are internalised at an unconscious level.[18] It is also possible to have competing cultures within one organisation, which cause additional friction and impact the broader policing response.[19] For example, while senior and executive leaders may have a vision of the desired culture and promote strategies to achieve it, conflicting cultures across the service may undermine the vision.

Police culture refers to the mix of informal prejudices, values, attitudes, and working practices. These include those commonly found among the lower and middle ranks of the police that influence the exercise of discretion. Understanding the culture and situating it within the ever-changing social and cultural contexts of policing are essential. Police, like all other human service professionals, need to understand how their background and life experiences influence their perspectives and approach to work. Individuals need to identify unconscious bias that has a direct impact on their decision-making. They then need to reflect on it and mitigate it in their practice.

While it may be easy enough to address some aspects of culture, others are much more difficult to change. Hence, the QPS has engaged an external supplier to develop a cultural change program for employees.[20] It has also appointed a Domestic and Family Violence Cultural Change Champion at the Deputy Commissioner level and domestic and family violence champions of change at the district level.[21]

The Taskforce commends the QPS for acknowledging the seriousness of the issue and taking steps to address it. As a matter of urgency, embedded and systemic cultural and attitudinal issues that damage the policing response across locations need to be addressed.[22]

In her Taskforce submission, a member of parliament noted:

> the need for a renewed police culture, comprehensive training and specialised officers could not be starker than in Queensland, and it is essential that these policy settings are prioritised over the creation of new offences, or further criminalisation.[23]

To address these perceptions, the QPS must embrace transparent and accountable practices across the service and better understand the drivers of domestic violence perpetration within their ranks.

Recommendation 31

The Queensland Government develop and implement a transformational plan to address widespread culture, values, and beliefs within the Queensland Police Service to enable the QPS to achieve better outcomes for victims of domestic and family violence (including coercive control) and better hold perpetrators to account.

The plan should be developed and implemented with the assistance of the Queensland Public Service Commission.

The transformational plan would be informed by the lived experiences of victims of domestic and family violence, including Aboriginal and Torres Strait Islander peoples, people from culturally and linguistically diverse backgrounds, LGBTIQA+ people, and people with disability. The plan will help the QPS achieve better outcomes through operational reforms and initiatives recommended by the Taskforce, as well as through reforms and initiatives already underway. This will enable the QPS to provide more effective policing responses to domestic and family violence and coercive control and better meet community expectations.

Implementation

As with all of the Taskforce's recommendations, the focus should be on achieving high-quality *outcomes* for victims and perpetrators rather than *outputs*. Output data measures workload and demonstrates resource requirements, but it is only part of the picture. Output measures do not monitor quality or success in terms of the difference made to people's lives and the administration of justice.

The operational initiatives and reforms currently being implemented within the QPS should be independently and objectively measured against the outcomes they achieve for victims and perpetrators. Outcomes should be measured using external data and information and not limited to QPS administrative data (for example, independently collected qualitative information on the perceptions and experiences of victims provide a greater understanding of the effectiveness of the initiatives). Quantitative data from other non-government and government agencies such as courts data is also needed to gain a greater understanding of a victim's end-to-end journey through the service and justice systems. This approach will help monitor and track the impact of broad organisation-wide reform that aims to change the organisational culture.

To support cultural change and highlight opportunities for intervention and prevention, accurate and consistent recording of all contacts *before* a domestic violence-related death is needed.

The Taskforce noted marked differences in the reporting of domestic and family violence-related homicides in Queensland. As noted in 1.3, the recently released *Queensland Domestic and Family Violence Death Review and Advisory Board Annual Report 2020–21* identified that more than 84% of deceased victims and 88% of homicide perpetrators had had prior contact with the QPS.[24] This contact covered both domestic violence and non-domestic violence-related contact. In contrast, the QPS state that in nearly 70% of domestic and family violence related homicides between 2014-15 and 2019-20 there was no 'prior police domestic and family violence contact with parties'.[25] This figure has also been reported in the media with Assistant Commissioner Brian Codd quoted as saying 'of all domestic and family violence homicides … nearly 70% of them had no prior domestic violence record or connection with police'.[26]

Given the significant difference between these figures, the Taskforce suggests that the transformational plan outline key measures to ensure consistency for reporting statistics. For example, domestic and family violence-related homicide and suicide statistics drawn from QPS databases for reporting purposes should align to the nationally agreed approach used across the Australian Domestic and Family Violence Death Review Network.[27] This approach includes patterns of service contact — regardless of the reason — and how the police record the contact (for example, street checks, welfare checks).[28] This would support national consistency and increase police awareness of the opportunities to intervene with victims and perpetrators across a variety of police–citizen interactions.

The transformational plan should aim for widespread cultural change across the QPS so that values and beliefs align with the outcomes for victims and the community's expectations. This includes equitable access to policing responses by women and girls, Aboriginal and Torres Strait Islander peoples, people from culturally and linguistically diverse backgrounds, and LGBTIQA+ people.

To support Queensland's diverse population, the QPS should strengthen its approach to recruiting for diversity. The transformational plan should incorporate strategies to attract applicants from a wide range of backgrounds, using equitable and transparent processes. Measures to increase understanding of why people from diverse backgrounds initially join the police, the average length of service, roles undertaken, locations served, and reasons for separation would support continuous improvements to recruitment and retention practices.

The Queensland Government has engaged Professor Lorraine Mazerolle to conduct an independent review of the investigative processes into:

- deaths in police custody
- deaths in the course of or as a result of police operations
- domestic and family violence deaths with prior police involvement.

The review will commence soon, with a report to be finalised by the end of April 2022. The review will respond to findings and recommendations made by His Honour Magistrate Terry Ryan, State Coroner, on 22 January 2021 in the report on the Inquest into the Death of Cindy Leigh Miller. That report recommended that the Queensland Government consider commissioning an independent review of the current arrangements for investigating police-related deaths on behalf of the coroner and the oversight of those investigations (recommendation 2). The State Coroner made no adverse comment against any police officer or member of the watchhouse staff about the conduct of the police investigation into Ms Miller's death. But the report acknowledged that community confidence in the independent investigation of police-related deaths is a matter of significant public interest. Death review processes can provide a valuable opportunity for reflection, continuous learning, and

operational improvement. The Taskforce agrees that independent investigation of these matters would improve community confidence and looks forward to learning the outcome of this review.

The Queensland Government should immediately develop and implement a transformational plan for the QPS. If the Taskforce's recommendation about the establishment of an independent commission of inquiry (recommendation 2) is accepted and implemented, the transformational plan will be part of the Queensland Government's response to that commission of inquiry.

The transformational plan should include such strategies as:

- revising recruitment screening, promotion systems and retention practices (retention practices should also incorporate the progression of Aboriginal and Torres Strait Islander peoples, peoples from culturally and linguistically diverse backgrounds, and those from the LGBTIQA+ communities within the QPS so that they are represented at all levels of the service)
- increasing diversity across the QPS to better reflect the community by seeking applications from a diverse range of people
- re-establishing and properly implementing a target for the proportion of sworn officers who are women and a target for those who identify as Aboriginal or Torres Strait Islander
- establishing an internal complaints process for officers to disclose concerning practices that they have the confidence to use safely without fear of reprisal
- reviewing policies and procedures about personal use of social media
- establishing a safe, transparent, open, and accountable complaints process for victims that is accessible and confidential
- developing and embedding strategies to reform police culture and better align attitudes and values to operational outcomes at all levels of the service, and address negative impacts of the policing response to domestic and family violence
- embedding ongoing support to police officers (including frontline officers) to limit the potential for vicarious/secondary trauma for all employees, including those working within domestic and family violence
- acknowledging and accommodating the time it takes to investigate domestic and family violence matters to demonstrate the value of this important work
- strengthening cultural capability and capacity across the service through ongoing training for all levels of the service
- clarifying the requirements for all staff about the expected behaviour in personal relationships and the investigation of allegations of domestic and family violence against other police or involving police victims — also, the unequivocal response to behaviour not consistent with these requirements and expectations
- an independent process to investigate police involvement in domestic and family violence deaths based on outcomes of the independent review by Professor Lorraine Mazerolle.

Cultural transformation is an acknowledged key ingredient for strengthening justice and service system responses to coercive control.[29] In terms of policing, cultural change requires time and the allocation of resources. It must also include extensive trauma-informed training and education focused on strengthening the ability and willingness of staff to recognise and respond to coercive control, perpetrator attempts to manipulate the system, and intersecting vulnerabilities.[30] The role of empathy and supportive attitudes for both police officers and staff members towards the community

they serve should also be addressed.[31] Strategies to increase diversity will deliver outcomes over a longer timeframe.

Domestic and family violence expertise within the QPS

Dedicated domestic and family violence specialist expertise and resources

In March 2021, the QPS established the Domestic, Family Violence and Vulnerable Persons Command overseen by an Assistant Commissioner. The Command, based at police headquarters in Brisbane, supports the development of policies and practices to improve policing relating to domestic and family violence and vulnerable persons. The Command provides training and support to the dedicated domestic and family violence officers in each district, who report through the district management structures.

There is a benefit to having dedicated specialist domestic and family violence resources in each police district.[32] Not all the officers in these units have specialist knowledge, expertise, or a particular interest in domestic and family violence policing. However, stakeholders described the importance of dedicated resources to guide and oversee decision-making throughout the district. The family of one victim told the Taskforce that she had almost daily contact with an officer in her local Domestic and Family Violence and Vulnerable Persons Unit. The family felt that the officer had believed and supported the victim. The officer had also assisted other officers in the district to understand and investigate a particularly serious breach of a Domestic Violence Order and to ultimately lay very serious charges against the respondent.[33]

In some districts, individual officers are rotated through these Domestic and Family Violence and Vulnerable Persons Units. This is an opportunity for the QPS to provide on-the-job training and professional development to officers, which they can draw on in other areas of the service. It also enables the service to manage the risk of vicarious trauma by not having officers working in this complex area for long periods.

As well as benefits, the Taskforce has heard that there are risks to this approach. An Officer in Charge of one district described how some officers see a period in one of these units as a break from the daily demands of frontline policing rather than as an opportunity to perform a valued specialist role requiring particular expertise. Having officers in these units with little interest or the wrong attitude also risks undermining the quality of the service provided and public confidence in policing responses. The Taskforce is of the view that officers working within Domestic and Family Violence and Vulnerable Persons Units require specialist expertise and should have values and beliefs aligned with the work and role of the units.

The Taskforce heard that the roles and responsibilities of Domestic and Family Violence and Vulnerable Persons Units vary across the state. Domestic and family violence stakeholders said this created confusion and uncertainty, as well as an inconsistent response. For example, one service described working with two separate units in neighbouring districts — each had its own view about working collaboratively with the service. This resulted in people in a single metropolitan area getting very different responses.[34] Victims also described varying experiences and responses depending on which unit they contacted.[35]

The Taskforce sees the need for some flexibility to respond to particular needs and demands in each district. However, there should also be appropriate resources and a consistent core set of functions and responsibilities across all Domestic and Family Violence and Vulnerable Persons Units. These include:

- to review and oversee decision-making in individual domestic and family violence matters
- to offer specialist expertise for investigating offences related to domestic and family violence.

Some districts incorporate trained detectives within these units. Given the complexity of these investigations and the time required to investigate them, the Taskforce considers specialist trained detectives should be involved earlier and more frequently in all units.

This will be essential to support the implementation of changes to the law recommended by the Taskforce, including introducing a new offence. The burden of responsibility on frontline officers to investigate and lay charges is not consistent with the QPS approach to other serious crimes.

Increased specialist expertise and competency in responding to victims of domestic and family violence and coercive control are needed to provide victims with the right support, at the right time. Given the complexity of domestic and family violence cases highlighted throughout this report, the QPS must leverage existing knowledge, expertise, and networks within its service to improve its response. This would include, for example, drawing on the expertise of the QPS First Nations and Multicultural Affairs Unit, people with lived experience, and the specialist providers who support them.

The Taskforce is of the view that police who respond to and investigate domestic and family violence matters must have specialist trauma-informed expertise. This will help them better respond to cases involving people with multiple and complex needs. There is a demonstrated need for specialist support, guidance, and expertise across the service, not just for cases identified initially as domestic violence calls for service.

The Taskforce suggests police would also benefit from additional training and education on perpetrator tactics designed to manipulate police, justice, and service systems. This training should address issues such as perpetrator image management (appearing calm, quietly spoken, considerate while making false or misleading statements to make the victim less credible). This training should support police to consider perpetrator behaviour in the context of coercive control.

Domestic and family violence offences are unlike other crimes against the person. In domestic and family violence offending:

- the individuals are known to each other
- violence can occur over years or decades
- some victims want to continue a relationship with the perpetrator
- the parties may continue to co-parent.

They also cut across a wide range of offending conduct. The Taskforce has received many submissions from victims and their families who describe circumstances as diverse as the dangerous operation of a vehicle, wilful damage and property offences, arson, fraud, rape, animal abuse, and murder. Without domestic and family violence expertise, officers investigating these matters may not recognise the patterns of abuse. This may result in charges not being flagged as domestic violence.

Domestic and Family Violence and Vulnerable Persons Units should have a role in reviewing and providing advice to a wide range of other units and operational areas across the district. In one example, the victim explained:

> ‘the perpetrator was arrested and got on bail to my home address. I called the police and was told “there was nothing we can do”.’ [36]

The Taskforce has heard that the internal allocation of resources to Domestic and Family Violence and Vulnerable Persons Units varies depending on the priorities of each district. This can create tensions between competing priorities and make a unit dependent on the views of the individual officer in charge. Given the prevalence and complexity of domestic and family violence, these units should be allocated permanent resources commensurate with the needs and demands in each district. Other specialist domestic and family violence positions in each district should be streamlined, with each unit to leverage and coordinate expertise and resources.

Building capability and capacity across the QPS

The QPS has developed and implemented a raft of reforms based on previous reviews, reports, and the ever-changing landscape of policing.[37] These include training and education, operational policy reforms, cultural change initiatives, and organisational restructures.[38] The QPS has also moved to strengthen its partnerships and working relationships with domestic and family violence services, academics, and community members to improve its response to domestic and family violence.[39]

Internal advisory groups that include representation from agencies and organisations outside the QPS should be kept fully informed and encouraged to provide the police with frank information and advice about the realities of policing responses across the state. There needs to be a sharing of information within advisory groups *from* the QPS as well as *to* the QPS. To be collaborative, the QPS should consider the advice it receives in good faith.

Over recent years, the QPS has done the following to improve its response to domestic, family and sexual violence:[40]

- *QPS Cultural Capability Action Plan*, outlining ways to embed culturally appropriate practice and strengthen collaboration with key stakeholders
- *QPS Disability Service Plan 2017–2020 Refresh 2020–21,* addressing issues regarding service delivery to people with disability
- *QPS Sexual Violence Response Strategy 2021–2023,* delivering a victim-centric and trauma-informed response to sexual violence
- *QPS Domestic and Family Violence Prevention Strategy,* outlining how police will respond to domestic and family violence
- *Queensland Multicultural Action Plan 2019–20 to 2021–22*, ensuring culturally responsive and capable services.

This is encouraging. Linking these plans and strategies and embedding them across the service will help deliver improved outcomes for victims and perpetrators of violence. Developing an overarching strategy to build capacity and capability across the QPS will strengthen the linkages across these various strategies and other initiatives.

In this work by the QPS, the Taskforce has found some repeated successes of policing approaches to domestic and family violence. These approaches are marked by:

- proactive strategies
- greater community engagement
- collaborative partnerships with agencies and services.

They also align with a community-policing approach. The Taskforce recognises that community policing is a core component of crime prevention in modern policing practices[1] and is embedded in the QPS plan. As part of a community-policing approach, the QPS should commit to working collectively with the community and other agencies in its response to victims of domestic and family violence.

Recommendation 32

The Queensland Police Service further build specialist expertise across the QPS to ensure it has state-wide capacity and capability to provide high-quality responses to domestic and family violence. This strategy will include:

- requiring officers within Domestic and Family Violence and Vulnerable Persons Units to have specialist expertise and values and beliefs aligned with the work and role of the unit
- requiring a core set of functions and responsibilities across all Domestic and Family Violence and Vulnerable Persons Units, including the review and oversight of decision-making in individual matters that may involve domestic and family violence, and providing specialist expertise in the investigation of such offences, while enabling some flexibility to respond to particular needs and demands in each district
- requiring specialist trained detectives to investigate domestic and family violence matters, especially those that may involve the commission of a serious offence, including offences arising from changes to the law recommended by the Taskforce
- drawing on the expertise of the QPS's First Nations and Multicultural Affairs Unit to link and coordinate the implementation of plans and strategies to improve responses to domestic and family violence involving people with multiple and complex needs
- expanding the role of the Domestic and Family Violence and Vulnerable Persons Units to provide guidance and support and improve awareness and understanding across the entire district, including for matters that may not initially present as related to domestic violence
- allocating resources to the Domestic and Family Violence and Vulnerable Persons Units in each district commensurate with need and demand and the role of each unit to provide certainty and reinforce the importance of this work
- streamlining and coordinating dedicated resources in each police district, including Domestic and Family Violence Coordinator positions, domestic violence liaison officers, and High Risk Team member positions with Domestic and Family Violence and Vulnerable Persons Units to better leverage expertise and resources
- embedding training and education outcomes across each district
- promoting proactive approaches, greater community engagement, and collaborative partnerships with multiple agencies and services within each district.

It will also build the capacity and capability to meet the needs of First Nations peoples, people from culturally and linguistically diverse backgrounds, people with disability, and LGBTIQ+ peoples who are experiencing domestic and family violence.

Any additional investment required to implement this recommendation will be considered as part of the domestic and family violence system strategic investment plan (recommendation 13).

Implementation

Strengthening capability and capacity to respond to domestic and family violence will require the allocation of adequate resources within QPS. The Queensland Police Union of Employees (QPUE) raised the need for this based on feedback from districts across the service.[41]

Any additional government investment should be included in the domestic and family violence service system investment plan (recommendation 13) and progressed for government consideration in submissions led jointly by relevant ministers to enable strategic priorities and downstream implications to be considered.

The Domestic, Family Violence and Vulnerable Persons Command should play a role in reviewing operational policies and procedures to support the implementation of strategies that will improve capacity and capability across the service.

Efforts should be made to streamline administrative and bureaucratic requirements to enable the efficient and effective use of resources and deliver value for money to the Queensland community. The Taskforce heard from the QPUE that an increasing focus on compliance in the QPS has complicated and lengthened the time it takes police officers to follow administrative processes.[42] Red tape and administrative burdens within the QPS should reduce as competency and expertise increase, especially with a greater focus on professional judgement over time.

Matching the allocation of internal resources in each district will require monitoring the demand, and resource allocation will need to be flexible enough to adapt to changes over time. The QPS has demonstrated this capacity in recent times in response to the COVID-19 pandemic. Demand for domestic violence resources is likely to rise in times of crisis or natural disaster and when domestic and family violence issues are highlighted in the community.

To support the realisation of benefits and delivery of outcomes for victims and perpetrators, the QPS's approach must be:

- victim-focused
- trauma-informed
- transparent
- accountable across all QPS strategies.

The aim is to restore and maintain community confidence in high-quality, consistent policing responses as an integral component of Queensland's domestic and family violence response. The community is entitled to expect consistent responses that keep victims safe and hold perpetrators to account to stop the violence rather than the current lottery dependent on with whom, where, and when a victim makes contact.

Operational and procedural reform

As mentioned earlier, the QPS has already developed and implemented policies, procedures, and operational supports to assist police in responding to domestic and family violence.[43] Despite this, the Taskforce identified a range of policy and procedural limitations in the current suite of QPS guidelines related to domestic and family violence.[44]

The Greenfield review — an independent assessment of the QPS undertaken in 2019 — identified problems in QPS documentation, policies, and procedures related to:[45]

- implementing legislative reform
- developing policies to manage the domestic and family violence response.[46]

In response to the Taskforce's first discussion paper, the QPS submission noted the QPS's focus on:

> constantly examining enhancements to existing policies, protocols and procedures to ensure every member understands the dynamics of domestic and family violence, regardless of their position within the organisation.[47]

This includes policies relevant to police officers accused of committing domestic and family violence.[48] According to the QPS, the recently formed QPS Domestic and Family Violence Advisory Group, consisting of internal QPS and external members, will work collaboratively to promote understanding of domestic and family violence within the QPS through engagement, training, policies, and practice.[49]

The QPS submission has called for changes to processes to help officers collect evidence (for example, through video-recorded evidence). The Taskforce understands this matter is progressing independently of our work and will consider this issue further as part of the next stage of work.

The QPS submission also calls for amendments to the *Domestic and Family Violence Protection Act 2012* (DFVP Act) to enable a police protection notice to be taken as an application for a Domestic Violence Order. This, it argues, would reduce confusion and duplicity and streamline processes.[50] This is already the case in all circumstances other than when a respondent is taken into custody.

Given the seriousness of cases where the perpetrator is taken into custody, and the heightened risk for the victim of retaliation from a respondent once released from custody — police are currently required to apply for a domestic and family violence order (including a temporary protection order) before releasing the respondent. They also must make release conditions.

The current requirements in the DFVP Act that require separate forms to be completed provide important safeguards when police powers are exercised to take a person into custody in a civil protection matter (rather than the alleged commission of a criminal offence). The Taskforce is not satisfied that removing the current requirements is justified. In terms of the forms that are required to be completed, this is a matter related to approved court forms under the DFVP Act. Therefore, any streamlining would require negotiation with the Magistrates Court and the Department of Justice and Attorney-General (DJAG).

The Taskforce is satisfied that the QPS should review all relevant policies, procedures, and operational requirements to ensure they properly reflect the patterned nature and impact of domestic and family violence in the context of a relationship as a whole.

Recommendation 33

As part of the transformational plan (recommendation 31), the Queensland Police Service review and update all relevant operational policies and procedures to ensure they guide police in identifying and responding to domestic and family violence as a pattern of behaviour over time in the context of a relationship as a whole.

Operational policies and procedures will be culturally capable, victim-centred, and trauma-informed and incorporate a strong understanding of the gendered nature of domestic and family violence through an intersectional lens. They will:

- include operational policies and procedures relating to complaints of domestic and family violence against currently serving sworn and un-sworn staff, and
- provide clear requirements for the disclosure of conflicts of interest.

Implementation

The QPS should update all relevant operational policies and procedures, including its Operational Procedures Manual. *Chapter 9 – Domestic Violence* should be updated to emphasise the patterned nature of domestic and family violence, including coercive control. At the time of drafting this report, the publicly available chapter (effective 12 October 2021) does not guide police about how to detect patterns of violence. This includes non-physical violence (coercive control) or considering a relationship as a whole. The chapter must be reviewed and updated to reflect the nature and impact of domestic and family violence, improve responses, and support the implementation of legislative reform.

Victims who made submissions to the Taskforce were frustrated by the lack of awareness of officers about non-physical forms of abuse. This frustration is highlighted in the following two extracts from submissions to the Taskforce:

> 'I tried to report it to a police officer. He was nice but said because I didn't have any bruises he couldn't help me.'[51]
>
> 'I was let down by the police who did not take my situation seriously because there was "no physical violence".'[52]

This review should be undertaken in consultation with First Nations, culturally and linguistically diverse, and LGBTQIA+ peoples, as well as domestic violence specialists and disability advocates. The QPS should frame its operational policies and procedures within a strong understanding of the gendered nature of domestic and family violence and use an intersectional lens. Policies and procedures should support and maintain the delivery of culturally capable, victim-centred and trauma-informed approaches within the QPS. The QPS operational requirements should also refer to and be consistent with the Office of the Director of Public Prosecution's prosecution guidelines recommended by the Taskforce (recommendation 69) and ongoing changes to the law.

Beyond specific operational policies and procedures relating to domestic and family violence, the QPS should be mindful that victims and perpetrators may contact the police for various reasons. Every contact, whether for sexual offences, traffic-related matters, neighbourhood disturbances, or property-related matters, presents an opportunity for police to identify domestic and family violence and respond protectively.

The Domestic, Family Violence and Vulnerable Persons Command is well placed to undertake this review and oversee implementation of the resultant changes.

Training and education

The Taskforce Discussion Paper – *Options for legislating against coercive control and the creation of a standalone domestic violence offence* (Discussion paper 1) noted that the QPS has been on a journey of improvement to address the different ways officers understand and respond to domestic and family violence in Queensland.[53] This process was also informed by recommendations from various reviews such as the QPS Violent Confrontations Review[54] and the Special Taskforce on Domestic and Family Violence in Queensland (Special Taskforce).[55]

The QPS has implemented domestic and family violence training across the service. Significant progress has been made in this regard since the *Not Now, Not Ever* report.

The training has included:

- delivery of a combined two-day, face-to-face Vulnerable Persons Training Package in 2017, which focused on mental health, domestic and family violence, effective communication, and legislative changes
- postgraduate studies in domestic and family violence prevention offered through the Queensland University of Technology from 2017
- online learning products, such as mandatory *Recognise, Respond, Refer* and annual refresher training
- specialist training for the investigation of sexual assault and domestic and family violence in 2019.[56]

In 2019, the QPS developed a cultural change program designed to enhance the policing response to domestic and family violence (chapter 1.3).[57] The QPS has advised coercive control training has been developed and is due to be rolled out in 2022.[58]

Training and education need to be reviewed and updated to:

- reflect domestic and family violence as a pattern of behaviour over time in the context of a relationship as a whole
- address coercive-controlling behaviour in particular.

Programs should be ongoing and regularly reviewed to reflect the growing evidence base.

Strengthening the police response requires an increase in trauma-informed education for all QPS employees at every level.[59] This education must be:

- ongoing, incorporating annual refresher training as a core component
- developed and delivered in collaboration with the service sector, academics, and police
- be informed by the voices of the people with lived experience
- take account of the diverse nature of policing, particularly in rural and remote locations.

The QPS must ensure that officers posted to remote and regional locations are prepared for and supported to meet the unique challenges they will face.[60]

As outlined in chapter 1.1, the Taskforce heard from hundreds of people with lived experience of domestic and family violence and those who support them. Only a few victims described police officers who displayed empathy, compassion, knowledge, and understanding and said that this reduced the trauma they had experienced from the violence and abuse.

The issues that need to be addressed through ongoing training and education for police are not dissimilar to those across the domestic and family violence and criminal justice systems broadly. Each agency needs to develop and implement training and education programs that complement the existing supports for staff and existing professional development across the agency. The programs must also be tailored to reflect the specific role of each agency.

However, to support integrated service system responses and joint and collaborative assessment of risk and safety planning, consistency of language and concepts across the service system is required. It makes sense for an agency with lead policy responsibility to also provide oversight and advice on the latest research and evidence about the nature of domestic and family violence and its impacts. Accordingly, the Taskforce has recommended an overarching framework for training and education and change management across the domestic and family violence and criminal justice service system (recommendation 23).

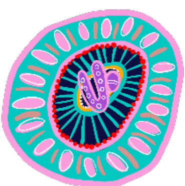
Informed by lived experience

The Taskforce has been impressed by the level of care and attention given to submissions by victims. These submissions are articulate, thorough, and well-considered. They offer great insight into the experiences and expectations of those who use Queensland services and supports, including what works and what does not. The process has also provided a voice to people previously silenced by the abuse and trauma they experienced.

The nuanced nature of domestic and family violence and the lengths perpetrators go to in order to control their victims requires direct feedback from people with lived experience.

For example, a family of a homicide victim described her as a capable, well-groomed, and strong young woman who rarely asked for help.[61] Going to a police station was a big step for her, but she was empowered by the support of her family to seek help. Despite the abuse she had experienced over many years, she had found the courage to regain control of her life and protect her children. Determined to leave the relationship and end the violence, she was clear about what she needed when the perpetrator breached a Domestic Violence Order. The first police station she went to for help turned her away. Her family reflected that she did not present as a typical victim in that she appeared strong and had the support of her middle-class family. They felt this probably caused the police to underestimate the extent of her fear and level of danger. Subtle and nuanced feedback like this is invaluable to inform the way training and education for police is shaped and delivered.

Culturally capable, victim-centred and trauma-informed approaches



In chapter 2.2, the Taskforce discussed its concerns about the over-policing of Aboriginal and Torres Strait Islander peoples as a factor in their overrepresentation in the criminal justice system. First Nations peoples are also over-represented in terms of their experiences of domestic and family violence, and it is a significant contributing factor to their high incarceration rate.

Training and education for police must incorporate an understanding of the particular impacts of violence against Aboriginal and Torres Strait Islander peoples, people with disability, people from culturally and linguistically diverse backgrounds, and LGBTIQA+ peoples. They must also understand

how the lived experience of racism and discrimination influences a person's involvement with police and their ability to seek help.

Training should also be trauma-informed. Trauma-informed practice means working with those affected by trauma in a way that understands its effects and minimises further trauma.

Like other human service areas, trauma-informed approaches are becoming increasingly important in law enforcement in other jurisdictions.[62] For example, in 2018, before implementing activities to support its coercive control offence, Police Scotland delivered trauma-informed training and education to staff.[63]

The arguments for incorporating a trauma-informed approach in law enforcement agencies are compelling:

- Police are often in situations where they are confronted by victims experiencing trauma, and a trauma-informed approach helps them recognise the signs and how to respond.
- Police frequently respond to people who are experiencing trauma without understanding the impact of trauma on perception and memory and are therefore likely to inadvertently re-traumatise those who look to them for help — this also means police may not be collecting the best evidence to support an investigation.
- The communities most likely to be the focus of policing are also those suffering from past or current economic and racial injustices, which compound the trauma of their people.

Face-to-face and competency-based training

The Taskforce has heard concerning stories from police about practices of staff sharing the answers to online training modules with their colleagues to meet training requirements. While online training may be efficient (often the only option during COVID-19), it has limitations.

Face-to-face training, which allows participants to interact, incorporates lived experience, and provides a safe and supportive environment for questions, appears to be more beneficial than online learning alone.[64] Training for all levels of service (such as provided in Scotland) ensures consistency across the organisation. Education and training should be provided in a safe learning environment. This means officers and employees can ask questions, raise concerns, and discuss real-life scenarios without fear of ridicule or repercussions.

Training and education about domestic and family violence and coercive control should be competency-based. It should focus on translating knowledge into a demonstrated ability to implement skills on the job. It should incorporate ongoing reflection about practice improvement, including professional supervision and support.

Recommendation 34

The Queensland Police Service continue to develop and deliver ongoing evidence-based and trauma-informed domestic and family violence and coercive-control training and education to all levels of the service. This training will that consistently align with the whole-of-system training and education framework developed by the Department of Justice and Attorney-General (recommendation 23).

Training must:

- be informed by the voices of people with lived experience, including Aboriginal and Torres Strait Islander peoples, people with disability, LGBTIQ+ people, and people from culturally and linguistically diverse backgrounds
- include a focus on culturally capable, victim-centred and trauma-informed approaches and incorporate a strong understanding of the gendered nature of domestic and family violence through an intersectional lens
- be developed and delivered in collaboration with experts from the service sector, academia, and policing
- focus on victim safety and holding perpetrators to account to stop the violence
- include evidence-based information about perpetrator tactics, including manipulation and image management
- consistently align with the whole-of-system training and education framework developed by the Department of Justice and Attorney-General (recommendation 23)
- be competency-based and supported by ongoing professional supervision on the job, and informed by the evaluation and outcomes of Investigating Sexual Assault – Corroborating and Understanding Relationship Evidence (ISACURE), which is already being implemented in some areas of the QPS to train officers in trauma-informed questioning, investigation, and evidence collection.

Implementation

Training must be informed by the voices of people with lived experience, including Aboriginal and Torres Strait Islander peoples, people with disability, LGBTIQA+ people, and people from culturally and linguistically diverse backgrounds.

The Taskforce emphasises this point because many of the negative policing responses we heard profoundly affected these communities and people.

At a minimum, training could include the following:

- a mixed approach that incorporates face-to-face, online, mentorship/coaching, professional supervision and cross-sector learning
- holistic domestic and family violence/coercive-control training inclusive of:
    - policy, legislation, and practice
    - complexities and dynamics of coercive control
    - risk and protective factors
    - perpetrator manipulation and image-management tactics

- victim trauma responses
- impacts of domestic and family violence on children
- information-sharing
- intersectionality with other vulnerabilities (for example, substance misuse and homelessness)
- importance of accessing impartial interpreters via existing systems to ensure people from culturally and linguistically diverse backgrounds are provided procedural fairness in their engagements with police
- strengthening identification of, and support for, people with intellectual disability and cognitive impairments when interacting with police as victims or perpetrators
- evidentiary requirements and investigative practices.

Training must be evaluated regularly to make sure it is delivering more positive interactions between police and victims of coercive control and domestic and family violence.

Officers and staff members may also better understand domestic and family violence from on-the-job training, professional supervision, and mentorship. Adapting police training to suit different learning styles is vital to developing knowledge and skills.[65]

Training should be designed in such a way as to draw on participants' existing knowledge, challenge officers in terms of their belief systems (attitudes/values), and motivate them to consider the bigger picture.[66]

Training should be responsive and adaptive to the workplace setting[67] and viewed within the context of adequate resourcing for the criminal justice system at every level.[68]

One submission noted the need for 'adequate resourcing of frontline responders as well as training to respond quickly to all incidents of domestic and family violence with gender-specific compassion, understanding and respect'.[69]

There have also been calls for the Queensland Government to:

> …deliver consistent and mandatory specialised training to identify and respond to coercive and controlling behaviours for police officers, judicial officers and prosecutors. [This] training and response … must also extend to the identification of other high-risk factors of violence, in particular the strong link between pet abuse and prevalence of family violence.[70]

The QPS submission noted the need for 'significant additional financial investment beyond initial DJAG administered commonwealth funding'.[71] This should be balanced with the need for training and education across the entire criminal justice system.

Additional suggestions to enhance police training, including for QPS Academy Recruits, include:

> … enhanced real-life, scenario-based training to better identify the elements of domestic and family violence. The QPS [should also] invest more time and resources with conducting police and external supporting agency forums particularly, more conversations with victims/survivors of all genders.[72]

Basic skills such as communication, interpersonal relations, observation, and the ability to make quick decisions are a constant in police work.[73] Many other aspects of policing change rapidly, requiring skills to be constantly upgraded.[74] Findings from a range of studies, and supported through Taskforce submissions, suggest the need for intensive police training on:

- cultural capability[75]
- attitudinal and behavioural change[76]
- understanding of the dynamics of the offence, including perpetrator tactics and potential for misidentification of the primary aggressor[77]
- appropriate techniques for eliciting information from victims and suspects[78]
- effective communication skills with a variety of people (including victims, suspects, colleagues, experts)[79]
- dealing sensitively with victims[80]
- policing through a trauma-informed health lens[81]
- appropriate risk assessment including non-physical risk factors[82]
- intersectionality across domestic violence and other criminality/victimisation.[83]

The Anglican Diocese of Brisbane suggests the program Safe Lives be explored further, along with the Canadian two-day domestic and family violence specialist training programs. These programs include:

- definitions and dynamics of domestic and family violence
- the rationale for risk assessment as well as common lethality indicators
- victim safety and how to support victim decision-making[84]
- an understanding from the victim's perspective of the impact of cumulative trauma
- how domestic violence is viewed and responded to by attending police officers.[85]

Comprehensive specialist training is needed and regular refresher courses for all domestic and family violence professionals.

Combined training across the justice and service system would go a long way to reducing resource and funding implications. It would also provide opportunities for cross-learning and building local relationships, which would strengthen integrated service responses across Queensland.

Assessing risks related to domestic and family violence

The Taskforce has observed that agencies across the system refer generically to the need for 'risk assessment' without a consistent understanding of which risk they're assessing.

For specialist domestic and family violence service providers, the focus of a risk assessment is on the victim — their safety and risk of harm. This includes a focus on the particular characteristics and vulnerabilities of the victim, their sense and level of fear, and access to protective or safety factors. For other agencies, including police, the focus is on the risk of the perpetrator continuing to use violence.

These are related but different risks. Both approaches incorporate various elements of the other, but this lack of clarity about which risk is being assessed can lead to wasting valuable time and resources. This is most evident when parts of the system identify different cases as being high risk.

A risk assessment should also consider the likelihood of something happening and how severe the impact is likely to be if it does. For some agencies across the services system. There is a tendency to focus on the first of these elements only, rather than both elements.

For risk assessment tools to be effective, they need to be validated and reliable. People can only score a risk assessment consistently if it is accurate.[86] Risk assessments should also consider local norms and context, such as crime rates or social factors that are specific to that location.[87] This is because these factors can influence risk ratings and police responses. For example, using a risk assessment tool developed for the United States may not be suitable in the Australian context.[88]

To improve integration and coordination across the system, there needs to be a consistent and clear understanding of the purpose of a risk assessment, how an outcome can be used collaboratively, and mutual respect for the different perspectives that each agency brings.

Across all parts of the system, there should be a focus on assessing both the risk of harm to the victim and the likelihood that a perpetrator will continue to use violence.

Consistent with the Taskforce's observation, the QPS' recent evaluation of operation Sierra Alessa, which targeted high-risk domestic violence perpetrators, found this operation may not have adequately considered the safety of victims. This is a limitation that makes the real success of the operation difficult at this stage to assess reliably.[89]

The inconsistent reliability of risk assessment models to predict violence highlights the need for ongoing training to ensure users of risk assessment tools have:

- a suitable level of competence and understanding of the dynamics of domestic violence
- an understanding that risk assessment tools do not necessarily capture all indicators of risk.[90]

Along with research on types of tools in use, there is a growing body of evidence about significant gaps in current practice. These include a lack of:

- established guidance on risk definitions
- professional standards for conducting risk assessment
- communicating risk information
- appropriate methods for assessing risk.[91]

ANROWS has suggested creating a risk assessment tool to help police assess patterns of coercive control.[92] To identify and respond to patterns of behaviour accurately, existing tools will need to be reviewed and revised. This will be fundamental to implementing the legislative reforms recommended by the Taskforce and achieving better outcomes.

A strong risk assessment tool must incorporate predictions on the imminence and severity of risk, appropriate interventions, and ongoing case management based on structured professional judgement.[93] The Institute for Urban Indigenous Health and ANROWS have both suggested the need for a risk assessment tool specific to coercive control.[94]

Risk assessments must also incorporate factors relevant to both perpetrators and their victims (including their children).[95] When used effectively, risk assessment tools can support early identification of risk and timely intervention. As one victim told the Taskforce:

> 'I called [the domestic violence service] and they literally saved my life by doing a risk assessment and saying …"You're in the highest risk category possible … many women in your situation have died".' [96]

Consistent alignment with a whole-of-system risk assessment framework

Improving risk assessment processes is not only a policing or Queensland issue. Jurisdictions and organisations across the globe continue to evaluate, refine, and develop risk assessment tools based on emerging best practice.[97]

Throughout this report, and echoed in recent literature, is the need for a shift across the entire service and criminal justice system. This must move from an incident-based approach to one that recognises and responds to patterned forms of violence, including non-physical violence, and considers the relationship as a whole.[98]

The Taskforce is of the view that a common risk assessment and safety management framework should be developed across the justice and service system and that individual agency and service provider risk assessments should be consistent with this framework.

The risk assessment framework must incorporate an assessment of the risk of:

- harm to the victim and the need to seek safety
- a perpetrator continuing the abuse.

This includes the likelihood of abuse continuing as a pattern of violence in the context of the relationship as a whole, and the likely severity of the impact if it does.

The framework could be a revised and strengthened Queensland Domestic and Family Violence Common and Risk and Safety Framework (CRASF) or modelled on the Victorian Multi Agency Risk Assessment and Management Framework (MARAM), discussed in chapter 1.2 and 3.3.

A common approach does not preclude agencies across different parts of the system from using different tools that best reflect the agency's role and responsibilities. It would, however, enable agencies to adopt consistent terminology and definitions. Agency perspectives will vary, but together, they are likely to result in an integrated service system response.

The overarching framework, and any risk assessment tool or process that aligns with it, should be culturally considered. It must address the unique risks and protective factors evident in First Nations communities, culturally and linguistically diverse communities, people with disability, and LGBTIQA+ people.[99]

Some stakeholders have told the Taskforce that there should be a single approach across the entire system. The Red Rose Foundation[100] has suggested the need for risk assessment criteria to support decision-making at all steps of the criminal justice process, including bail, cross-applications, ouster orders, length of orders, and sentencing.[101] White Ribbon Australia has called for a shared definition under a single offence of coercive control and a shared tool for risk assessment, suggesting this would result in a more consistent and holistic response to victims across Queensland.[102]

The Taskforce is not convinced this is necessary for three reasons. First, thorough risk assessments should be carried out by professionals with the necessary skills, knowledge, and training.[103] Training across the broad spectrum of roles that may come into contact with people experiencing domestic and family violence to a specialist standard is not practicable. When discussing the use of risk assessment, the QPUE noted:

> that [risk assessment] is a specialised area that requires specialist police to deal with it … first responders are first responders and cannot be trained to do everything.[104]

Second, whilst 'a common risk assessment framework would be useful … [non-government organisations] have their own risk assessment tools',[105] as do police and other government agencies. This is because organisations have different roles and responsibilities, aims and skillsets, and access to different types of information:[106]

> coercive control shows up very clearly on risk assessment tools used in the domestic violence sector … I believe specialist policing involving highly trained officers in specialist facilities will provide an environment where risk assessment tools identifying coercive control can be most effective.[107]

Finally, a single standardised assessment is not feasible given the variety of services involved in responding to domestic violence, their differing scope, and the information they require.[108]

The purpose of assessing risk is to:

- enable professionals to identify and prioritise high-risk cases
- intervene and protect victims
- allocate limited resources where they are most needed.[109]

Because of the highly complex and dynamic nature of domestic and family violence, risk assessments by agencies such as the police require specialist skills and understanding.[110] Police have a frontline and often first-response role in domestic and family violence-related matters. They also have access to information and intelligence that other agencies do not have. Comprehensive risk assessments carried out by police are complex. They require careful implementation and ongoing review. It is not possible, given their role, for police to use simple off-the-shelf tools.[111]

In line with the findings in chapter 1.3, the Taskforce is ***not*** recommending a single risk assessment tool. It is recommending a risk assessment *framework* that recognises the need for a shared language and understanding of risk across the justice and service system.

This includes a shared understanding of the core risk and protective factors that should be weighed as part of an assessment.

Tools and professional judgement

A 2019 evaluation of the QPS DV-PAF found that it is effective and easy for police to use, but it could be strengthened by modifying it into an automated actuarial tool and incorporating 'big data'.[112] This may include 'incorporating an offender's history in a coherent way, rather than treating each domestic violence incident as a separate event'.[113]

Risk assessments that have been automated to some degree, such as drawing static factors from police databases, have been shown to reduce the time taken to use risk assessment tools.[114] This ensures police officers are aware of the prior history of domestic violence, general offending, and victimisation.[115] Automating the collection of some of the information also enables officers to spend more time conversing with a victim and perpetrator. This information can then be used to determine the most appropriate immediate response and accurately determine the level of risk posed. In addition, automation of risk assessments can reduce the potential for errors in data input or calculating scores.[116]

Automated approaches depend on the reliability of the information on which they draw. To be reliable, the information in police databases will need to be up-to-date and the data entry accurate. Only then will these approaches support reliable assessments.

A strong risk assessment should incorporate predictions on the imminence and severity of the risk of harm to a victim and appropriate interventions and ongoing case management.[117] In light of this, the use of a mixed approach using actuarial-based criteria and weighting along with professional judgement, otherwise referred to as structured professional judgement, has gained traction in recent years.[118] This approach can avoid using a tool that will result in an unreasonable outcome.

A tiered approach involving ongoing assessment

The Taskforce acknowledges that, within the QPS, different officers have different levels of understanding and expertise. For this reason, different areas within the service may need to use different risk assessment processes — sometimes referred to as a tiered approach (chapter 1.3). For example, first-response police may use an initial assessment to screen risks for victims and perpetrators. Then, once more information has been collected, specialised police will conduct a full risk assessment. A tiered approach would enable effective and integrated management of risk.[119]

Given the dynamic nature of domestic and family violence and the need to consider the relationship as a whole, the risk assessment should also be viewed as an ongoing process of assessment and review, requiring a consideration of the most appropriate course of action to reduce recurrence.[120]

Recommendation 35

The Queensland Police Service, in consultation with First Nations stakeholders and people with lived experience of domestic and family violence, review its risk assessment processes to ensure they:

- consider the safety and risk of harm to a victim
- consider the risk of a perpetrator continuing to use violence
- are implemented in a tiered approach across the QPS.

Risk assessment processes should incorporate ongoing assessment and consideration of patterned violence, including non-physical violence over time in the context of a relationship as a whole. These processes will use both tools and professional judgement, where relevant, and adopt a tiered approach across the service.

The risk assessment process will be culturally capable and consider additional factors relevant to First Nations people, people with disability, people from culturally and linguistically diverse backgrounds, and LGBTIQ+ people experiencing coercive control and domestic and family violence.

The QPS risk assessment approach must consistently align with the broader risk assessment framework used across the domestic and family violence service system and be evidence-based.

Implementation

To implement this recommendation, the QPS will need to review its existing risk assessment tools to ensure a) they are consistent with the overarching framework and b) adequately address risks for coercive control and non-physical forms of violence. This review should make sure the tools used by the QPS incorporate a) the risk of harm to and the need for safety of the victim and b) the risk the perpetrator will continue to use violence. The tools should consider the risk of lethality associated with coercive-controlling behaviours. The review should also consider risks and protective factors for children, First Nations peoples, people from culturally and linguistically diverse backgrounds, people with disability, and LGBTIQA+ people.

This review should be carried out in consultation with domestic and family violence and First Nations stakeholders and people with lived experience of domestic and family violence.

Risk assessment tools must be validated and reliable. Before validation, a risk assessment tool must be tested for reliability to ensure people are assessing similar levels and types of risk in the same way.[121] An example of a reliability testing methodology may be assessing case studies as low, medium, or high risk. The case studies can be provided to a sample of police officers, along with the risk assessment tool being assessed. This sample should reflect the people who are going to complete the risk assessment tool.[122] For the QPS, this may mean having frontline officers from each district participate.

The following is an example of reliability testing. Police officers are asked to complete a risk assessment based on a case study and determine the final level of risk or risk score. Their risk assessments are then compared to see whether they scored the case studies similarly. When cases are scored similarly by different officers, the risk assessment tool is said to be reliable.[123]

The next step is to measure predictive validity. Predictive validity discriminates between different levels of risk (low, medium, high).[124] This is particularly important in the policing context, given the high volume of calls for service and the limited resources available to respond. By focusing on levels of risk, frontline police can determine the most appropriate course of action to take at a given point in time. It can also assist in triaging cases requiring specialist responses.

For risk assessment tools to be effective, police must be trained in their use, including when to use them. Information received by the Taskforce raised concerns about police not responding to complaints from victims. We also heard concerning allegations that police were being directed to record matters in the system as 'street checks' or other occurrences to avoid paperwork, despite operational requirements that this not be done. A greater focus on recording risk appropriately will put a stop to these practices.

The QPS should develop clear requirements about when a risk assessment should be carried out and by whom. This includes developing policies and practices about how police use risk assessment. It should also indicate expectations of police actions after completing the risk assessment, including avenues of investigation. The risk assessments must be guided by a consistent understanding of what the risk scores mean[125] in terms of:

- likelihood of harm to a victim (including revictimization)
- risk severity
- likelihood of re-offending, and, if so, its frequency.

Training should focus on the fact that information gathered in risk assessments is only one source of information and does not replace the need to gather further evidence. Conflicting information may also be recorded in risk assessment tools used by different services. Specialist expertise should be sought in these instances to ensure the risk assessment is thorough and accurate. Training should also reiterate that the use of a risk assessment tool in isolation is not sufficient to guarantee a victim's safety.

Police acceptance at the individual and organisational level is also required. Police officers generally support the use of risk assessment tools to assist decision-making.[126] The QPS should incorporate some form of performance monitoring to oversee how police officers use risk assessment tools and respond to the risks identified.[127] As reported in the literature, 'Monitoring of performance is likely to be critical to the effective use of risk assessment tools'[128] within the policing context.

Structured professional judgement tools that combine empirically derived risk items, including weighted scores (actuarial approach) and professional judgement, are beneficial when assessing domestic violence risk.[129] This evidence-based approach is useful because it establishes consistency and transparency in risk assessment.

Such an approach may also lead to more opportunities for specialist training and minimum standards for domestic violence risk assessments.[130]

There must also be an explicit and clear rationale about what risk is being assessed and why — for example, is it to predict risk, to identify harm and needs, or to support case management?[131]

Additional requirements include:

- clear consensus on how to define future harm (for example, level of entrapment from coercive control, severity of physical injury)[132]
- validation to account for the impact of post-assessment intervention factors on the likelihood of future harm[133]
- need for ongoing risk assessment over time and consideration of changes in circumstances such as attending or dropping out of programs/accessing services etc.[134]
- need for timely review of initial assessments to ensure appropriate action is taken through a 'robust and timely secondary review stage'[135]
- ability to track history on risk assessments, which would be particularly beneficial when determining whether a perpetrator is violent in the context of a relationship or is generally violent[136] — this would then help identify the most appropriate interventions[137]
- need for explicit expectations of what police are required to do, how to do it, when and why[138]
- a need for consistent training[139] to ensure police:
    - can use risk assessment tools appropriately
    - recognise that inconsistencies may exist in the assessment of risk
    - understand the process for ensuring a thorough and accurate assessment of risk in these cases.[140]

An accessible complaints process

In chapter 1.3, the Taskforce discussed the need for open and accountable processes for complaints about police officers. These processes need to be accessible for vulnerable people who have experienced domestic and family violence, including at the hands of currently serving police and other QPS staff.

People should be confident that their complaints will be properly and independently considered and responded to.

In its 2021–2025 strategic plan, the QPS identified protecting 'the legitimacy of policing through fair and ethical service delivery' as part of its commitment to 'creating a safer community and providing better services through connected and engaged relationships'.[141]

The Taskforce heard from victims of domestic and family violence and coercive control and other stakeholders that safety is about more than just physical safety. It includes having the confidence to seek safety in the first place.[142]

Police responses play an important role in giving victims the confidence to seek safety. Victims who felt they were dealt with fairly and ethically reported to the Taskforce feeling confident in police responses. Those who believed they were not taken seriously reported that this destroyed their confidence to seek protection from the police in the future.

Victims who wish to make a complaint as a result of poor policing practices or responses can use the existing pathways within the QPS, and these complaints may be resolved or addressed by:

- assessment, explanation, or direct response[143]
- local resolution or conciliation through a local complaint resolution process[144]
- formal investigation for matters assessed as being of a more serious nature.[145]

Complaints may be disciplinary or criminal, or both. Serious allegations against a police officer that may involve corruption are referred to the Crime and Corruption Commission. Breaches of discipline that are not substantiated as police misconduct or official misconduct are managed internally by the QPS.

Since the principle of devolution came into effect under section 34 of the *Crime and Misconduct Act 2001,* the QPS has significant responsibility for managing and conducting investigations into complaints about police misconduct. The QPS advises in their submission to the Taskforce that rigorous governance and monitoring of processes provide oversight of the handling and investigations of complaints and misconduct by the QPS:

> The assessment and investigation of complaints against QPS members is undertaken in accordance with several policy and legislative instruments, including the *Police Service Administration Act 1990* (Qld), *Public Service Act 2008* (Qld), *Crime and Corruption Act 2001* (Qld), Criminal Code, [Domestic and Family Violence Protection Act], QPS Operational Procedures Manual and QPS Complaint Resolution Guidelines. There are strict legislative timeframes which apply to the processing of these complaints and these are strictly monitored through a rigorous governance and monitoring process with oversight by the Crime and Corruption Commission.[146]

The QPS complaints system has undergone a series of independent and internal reviews to ensure ongoing effectiveness of governance and monitoring processes.

More recent and notable reviews of the QPS complaints system include *Simple, Effective, Transparent, Strong — An independent review of the Queensland police complaints, discipline and misconduct system*[147] (2011) and *Taskforce Bletchley*[148] (2015).

In response to recent recommendations made in *Taskforce Bletchley,* the QPS has:

- implemented a single reporting option for compliments and complaints[149]
- ensured information beneficial for early intervention strategies is captured through Policelink processes for complaints[150]
- reviewed current process and reporting requirements for management processes[151]
- implemented a complaints data system with capability to integrate with other QPS systems and platforms.[152]

The Taskforce acknowledges that past reviews of the QPS complaints system have strengthened some aspects of the governance and monitoring processes. However, the volume of submissions received by the Taskforce from victims of domestic and family violence unhappy with police responses and the complaints process raises concerns about whether the process is accessible and safe for victims.

After the term of the Taskforce, there should be an enduring mechanism that is accessible and effective for vulnerable people to make a complaint and have it investigated independently. The QPS should consult with domestic and family violence and First Nations stakeholders and people with lived experience of domestic and family violence to design a domestic and family violence complaints process that is accessible and safe from the perspective of vulnerable people.

Engaging with stakeholders and people with lived experience provides insight into those aspects of current processes that are working well and those that require improvement. Ensuring that complaints processes are accessible, open, and accountable will provide the QPS with an invaluable opportunity to learn and continue to improve its responses.

Designing a domestic and family violence complaints process that is victim-centred and trauma-informed will empower victims and build their confidence to report further episodes of abuse to police on their journey to recovery. It will, in turn, strengthen public confidence in the police.

The person who made the complaint should be told its outcome. This is especially significant for First Nations peoples who are over-represented as victims of domestic and family violence, are less likely to report violence to police, and have ongoing trauma associated with poor police relationships and historical experiences.

By the time victims report violence and abuse to police, they may have experienced months, years, or even decades of violence and abuse. The Taskforce found victims are often dealing with trauma as a direct impact of coercive control. They may be:

- involved in multiple legal matters
- trying to escape violence
- trying to find a place for themselves and their children to live.

If they have a bad experience with the police, they may not seek the protection of the police a second time. This could also be because of the ongoing impact of their traumatic experiences, the magnitude of the issues they are dealing with, and fear of reprisal from the perpetrator — but the earlier inadequate police response would have added to the mix. Finding the time, energy, and resources to follow through with a complaint about a police officer can often seem too mammoth a task for victims. A trauma-informed domestic and family violence complaints process will encourage victims to make a complaint and reduce the risk of them being re-traumatised if they do.

The submission to the Taskforce from the Centre for Women and Co, which provides specialist services for victims of domestic and family violence and coercive control (including helping them make complaints against police) described the potential effect on the QPS of positive and negative feedback:

> Our [domestic and family violence] specialists spend a considerable amount of time reaching out to Police to ensure that women's rights are upheld. Due to past negative experiences with police, we often have spent hours at police stations, supporting women to provide statements. We have had countless positive experiences and we email the [Officer in Charge] to share this to ensure officers know what is working well and to know that we are so thankful for what they do. Due to the responses and experiences, we have received from victim survivors, we also make several complaints per year in an attempt to ensure that officers will be held accountable and that processes can change to better protect women and children.[153]

The same service has also reported seeing 'police officers attending a home due to a [domestic and family violence] incident and not following up as the respondent in this home is a police officer'.[154]

In chapter 1.3, the Taskforce discussed concerning issues related to police who are perpetrators of domestic and family violence. The Taskforce has received submissions about less-than-ideal responses from police when victims report domestic and family violence in these circumstances.

An accessible complaints process should incorporate safe processes for victims to complain about police practice in response to their reports of violence. Victims in these cases require additional support to feel safe and confident that their complaints will be received and dealt with appropriately and confidentially. This is an area where the QPS needs to improve its responses, and an effective complaints process is one improvement needed.

As noted in chapter 1.3, domestic and family violence offenders who are police officers are more knowledgeable about both the justice and police complaints system, making them more skilled if they wish to manipulate aspects of those systems to undermine the victim.

The Taskforce has heard from victims of perpetrators who are police and from currently serving officers of a 'code of silence' and a 'club' among police. Victims in these cases feel they have nowhere to turn because the perpetrator's colleagues will protect them and that there is little point in applying for a Domestic Violence Order because it is unlikely to be enforced. These perceptions may be well-founded.

The Taskforce has heard from domestic and family violence services that they support many women who do not apply for orders against perpetrators because they are police officers.

The Taskforce has received information that reports of domestic and family violence by police perpetrators were investigated by officers who worked with and were friends with the perpetrator. Despite the existing complaints process setting out the requirement to disclose a conflict of interest so that those who work with or know the alleged perpetrator are not involved in these investigations, it appears this is not always followed.

The QPS has publicly indicated a willingness to better address complaints about police responses to victims of coercive control. Assistant Commissioner Brian Codd of the Domestic, Family Violence and Vulnerable Persons Command recently spoke to the media about holding police officers to a higher standard:

> [Assistant Commissioner Brian] Codd, who is in charge of a new police domestic and family violence and vulnerable persons command, acknowledged last week that police should be held to a higher standard and said the issue of how to deal with accused officers 'was very much on the agenda for us'. 'You can be a truck driver and you can be subject to a domestic and family violence order and it may not have any impact on your employment or where you sit within view of society,' he said. 'But we expect and are entitled to more from police officers.'[155]

Assistant Commissioner Codd's candour instils confidence in the leadership demonstrated by the QPS and its commitment to the values of the organisation.

Recommendation 36

The Queensland Police Service, in consultation with domestic and family violence and First Nations stakeholders and people with lived experience of domestic and family violence, develop and implement a victim-focused and trauma-informed complaints process that allows victims to make a complaint safely and confidentially against sworn or non-sworn QPS staff.

The complaints process will include independent, confidential, transparent, and accountable mechanisms for complaints about police responses to domestic and family violence to be received and investigated, including complaints about police responses in relation to perpetrators who are sworn and non-sworn QPS staff.

The process should include informing complainants about the outcome of their complaints.

The QPS should provide information in its annual report about the complaints it has received and the responses made, including those related to domestic and family violence allegations against QPS staff.

Implementation

A complaints process that is designed to be accessible and responsive to victims of domestic and family violence will require the QPS to review its current complaints processes.

This review should include co-design with domestic and family violence and First Nations stakeholders and people with lived experience of domestic and family violence. The QPS should engage with people from regional, remote, and urban areas to ensure the process is accessible to people across the state.

A plan for developing and implementing a domestic and family violence complaints process should encompass the following:

- safe, accessible, and confidential processes for victims, including victims whose abusers are police officers, to make complaints and participate in the complaints process
- processes to inform victims about the progress of their complaint and its outcome
- processes for assessing and investigating complaints that include consideration of disciplinary and other actions against individual police as well as mechanisms to improve practice
- processes to consider specific issues identified in this report about police perpetrators.

Complaints processes should ensure:

- victims of domestic and family violence can make a complaint in a way that is accessible to them
- victims have restored confidence in the police
- victims of domestic and family violence have confidence in handling and investigating complaints about police
- complaints processes are victim-centred and trauma-informed
- victims feel supported and safe to make a complaint about the response they received from police when the perpetrator is a police officer
- complaints processes are transparent, open, and accountable.

Improving collaboration, integration, and coordination

The community increasingly expects that police will identify and respond to the social issues that underpin offending behaviour. The community also expects the police to intervene and protect people who are at risk of harm. Given the breadth of the cases that police are involved in, it makes sense that police should respond in a way that focuses on QPS strengths and responsibilities.

Frontline police move from one job to the next and are under pressure not to spend too much time on each job. The Taskforce has heard from police officers that it can be hard to give a thorough response to a domestic and family violence case because such cases are complex and take time to investigate. Police officers said they felt pressured by their supervisors and the communications area to move on to other jobs on their task list before they had time to complete a Domestic Violence Order application satisfactorily.

The time it takes frontline police to consider and investigate a domestic and family violence case is underestimated. This is a particular concern in coercive control and non-physical forms of violence cases, as these subtle forms of abuse take more time to detect and investigate.

If frontline police had more time to deal with such cases, they could, potentially, detect more serious offending and intervene earlier. In England and Wales, police use a Priority Perpetrator Identification Tool, which they have found helpful in these types of cases. This approach also has cost benefits for the broader justice and service system.[156]

The Taskforce has heard stories of perpetrators manipulating frontline officers and police colluding with them, probably unknowingly. The perpetrator may minimise their use of violence and make the traumatised victim out to be 'crazy'. The perpetrator may also present events in a self-serving, distilled way so that the officer unquestioningly accepts their version of events. The perpetrator may even manipulate the police into thinking that they are the 'real' victim. As discussed in chapter 1.1, these actions are a form of systems abuse. Perpetrators of coercive control are often highly skilled in manipulation and presenting themselves as the 'good guy' to get others on their side. Frontline officers, under unrealistic time pressures and with limited experience of domestic and family violence, may not always look beyond the surface of the perpetrator's 'good guy' persona. When Scotland trained its police before commencing its coercive control offence, it trained them in the manipulative tactics used by perpetrators and explained how to resist those tactics.

The Taskforce is of the view that frontline officers need support to carry out a risk assessment and decide a course of action. Better outcomes for victims and perpetrators may be achieved from a more collaborative approach that uses the expertise of domestic and family violence specialist services. Qualified practitioners could assist police to recognise and respond to domestic and family violence. A collaborative response is particularly helpful in cases involving people with multiple and complex needs such as mental health issues or problematic substance use.

Over time, working collaboratively can help build capacity and capability within the police service and the specialist service system. This approach promotes a more nuanced understanding of each other's roles, responsibilities, and expertise. By working together, agencies can examine a case from different perspectives and work together to put in place the best plan to keep victims safe and hold perpetrators to account.

There are a number of different models of this integrated way of working. Co-responder models are one type of integrated response. They can involve a continuum of approaches, starting at the integration of services generally, to co-location (embedding a specialist domestic and family violence worker in a police station), to mobile co-responder teams (a small team made up of experienced police and specialist domestic and family violence workers attending callouts and engaging in joint decision-making).

Co-response models have the potential to provide timely integrated responses to victims and perpetrators. They can:

- give victims and perpetrators referrals to services
- involve specialist expertise in the assessment of risk and planning of actions
- assist in the identification of evidence to prosecute charges
- reduce misidentification of the person most in need of protection.

Co-responder models can also help police improve their understanding of the nature and impacts of domestic and family violence and the exercise of police investigative and decision-making responsibilities.

In Queensland, police implement co-responder models as part of their responses to other types of offending behaviour and social issues. They have been used with people with mental health problems or within the youth justice system. Evidence of the effectiveness of co-responder models in these settings is limited, but it does demonstrate successful outcomes. Consideration of an expansion of this model in a domestic and family violence context is warranted.[157]

The purpose of the co-responder model is to enable a specialist service system response to start at the same time as the police intervention. The presence of specialist domestic and family violence practitioners enables more comprehensive and specialist information to be gathered and safety and risk assessments to be carried out. Both the victim and the perpetrator can be referred to services and supports using a 'warm referral'. A warm referral involves the practitioner actively engaging with the victim and perpetrator at the scene and following up if needed to engage them with the service directly. This differs from the police making a referral through a database for another person from the service to contact the victim or perpetrator at a later stage.

A domestic and family violence mobile co-responder team needs two specialist domestic violence practitioners to attend with police — one with expertise in engaging with perpetrators and one to work with the victim. The specialist domestic and family violence practitioners can either attend a call for service with the police or shortly after the police have secured the scene.

A co-location model differs from a co-responder model. It generally involves embedding a specialist practitioner (for example, a mental health or domestic violence expert) within a police station or police communication centre. As discussed in chapter 1.3, the role of the co-located specialist practitioner includes providing assessments and advice to inform the police response, referring victims to other services and supports, providing outreach support for victims referred to the specialist practitioner, and victim advocacy. A co-location model may also include an outposted police officer within a specialist domestic and family violence service.

Both co-location and co-responder models aim to a) minimise the risk of harm for a victim, b) improve their safety, c) identify and assess a victim's needs, and d) refer them to support services. The longer-term goal is stopping the violence and reducing the need for ongoing contact with police.

Importantly, co-responder approaches can connect perpetrators to an intervention program earlier if one is available. If a perpetrator engages with a service, this is an opportunity to gain intelligence to ensure the victim's safety, make the perpetrator accountable, and try to change their behaviour.

As outlined in chapter 1.1, some victims of coercive control may not recognise it as abuse. A joint response involving specialist domestic and family violence practitioners and the police has the potential to provide expert skills to help the victim recognise the signs of coercive control and put in place appropriate support.

A critical opportunity to engage victims and perpetrators and provide services and supports occurs when the police arrive at the scene after a violent incident. Early intervention enables specialist domestic and family violence practitioners to work with a victim to develop a safety plan.

In a domestic and family violence context, co-responder and co-location approaches have been limited to two specific locations in Brisbane and Caboolture. Both models have broadly aimed to connect people to support services and be more focused on victims. They also strengthen collaboration and shared practice between police and local services.

The Taskforce met with specialist domestic and family violence practitioners from the Brisbane Domestic Violence Service (BDVS).[158] The practitioners work within Domestic and Family Violence and Vulnerable Persons Units in the Brisbane North and Brisbane South QPS districts as part of an interagency approach. This model is referred to as a co-responder model because outposted specialist domestic and family violence practitioners provide outreach to clients as well as assist the police.

While the approach differs between the two Brisbane locations, the domestic and family violence practitioners described benefits, including assisting police to conduct an assessment of a victim's safety, which improves police responses to domestic and family violence.

Practitioners are also able to screen whether a victim needs safe accommodation, access to a safe phone, crisis payments, security checks, or security upgrades to their home — help that many victims outside this model would not receive. These supports can be organised quickly to provide better safety and protection for the victim.

BDVS practitioners also said that the presence of uniformed police can be intimidating for traumatised victims. As part of a co-responder model, specialist domestic and family violence practitioners engage with a victim after police establish it is safe for them to attend. The practitioners told the Taskforce that this approach establishes rapport and trust, which helps them engage with the victims and perpetrators present. BDVS practitioners involved in the co-responder models in Brisbane can assist police in their preliminary identification of the person most in need of protection to avoid misidentification of victims and unneeded applications for cross-orders.

The differences between the two models operating in Brisbane North and Brisbane South include the level of acceptance and involvement of practitioners by police. For example, in one location in Brisbane, the QPS Domestic and Family Violence and Vulnerable Persons Unit involves specialist BDVS practitioners in cases it has prioritised. In the other location, there is an open dialogue with the embedded practitioner about when their expertise and input would add value.

The different operating models of these units also affect the role of co-responder practitioners. For example, in one location, detectives working within the unit allow the embedded practitioner to assist in the investigation of criminal matters; this does not occur in the other location.

Co-responder and co-location models must operate within the context of the local community where services are provided. However, the lack of a consistent operating framework agreed between the QPS and the DJAG — as the agency with lead policy and service delivery responsibility for domestic and family violence and the funder of non-government services — about the core elements of the model may mean that not all potential benefits are being realised.

It also means that, whenever there are staffing changes, commitment to the model needs to be renegotiated, participation reinvigorated, and relationships re-established.

Research suggests a need to establish:

- regular processes to review joint working arrangements
- provision of information on agreed referral pathways to health and community services at the point of crisis or after its resolution
- joint training programs for all staff involved
- co-location of practitioners and police or use of dedicated phone line(s)
- development of agreed protocols.[159]

Additional resources are needed to establish and evaluate these types of collaborative work. Introducing a co-response model may also increase demand in other service models in the domestic and family violence service system and additional resources would need to be allocated to those services as well.

The Taskforce recognises early intervention has the potential to reduce escalation of violence and abuse and overall costs to the domestic and family violence system and the justice system in the long term.

The Taskforce believes that there is real merit in further trialling co-responder models with a clear monitoring and evaluation plan to test the benefits they may provide for victims and perpetrators. It should be an objective of the trial to learn what the successful elements of such an approach are and how they could be replicated across the state.

Recommendation 37

The Queensland Government, led by the Department of Justice and Attorney-General, trial and evaluate an appropriately resourced co-responder model involving joint responses between Queensland Police Service and specialist domestic and family violence services in a number of locations.

The primary aims of the model would be to:

- improve victim safety by better identifying and responding to patterns of behaviour over time that constitute domestic and family violence, taking into consideration the relationship as a whole
- reduce the misidentification of the person most in need of protection in the relationship as a whole
- engage early with victims to connect them with services and supports to improve their safety and the safety of their children
- hold perpetrators accountable and stop the violence, including by engaging with them early to connect them with an appropriate intervention program
- provide expert advice and assistance to police to enable them to exercise the discretion to charge a perpetrator with a criminal offence
- improve service system integration, including a better understanding of agency roles and responsibilities.

The model should include a focus on meeting the needs of Aboriginal and Torres Strait Islander victims and perpetrators.

Consideration should be given to incorporating a remote, regional, and urban location as part of the trial. The model implemented as part of a trial should include adequate service system capacity and capability to support the trial.

The model should incorporate a mobile co-response to police callouts to undertake joint assessments of risk and safety plans as well as joint referrals for victims and perpetrators to relevant services and supports.

Informed by the outcomes of an evaluation, successful elements of the model should inform future rollout and service system design across the state.

Implementation

Victoria has implemented multidisciplinary centres based on the co-location of different agencies.[160] As part of this model, victims of sexual assault and child abuse are supported with a victim-centred, integrated, and holistic response. While the Taskforce will consider a regional hub model for the delivery of multidisciplinary responses as part of its second stage of work, the key principles that underpin the approach in Victoria provide some guidance about a co-responder model to be further trialled in Queensland, including:

- providing victims with empathic, professional, and comprehensive responses[161]
- working according to the best interests of the victim to uphold their rights, including their human rights[162]
- working collaboratively to ensure that the victim receives an integrated response[163]

- recognising each other's distinct roles and professional approach[164]
- where possible, engaging with and supporting families to provide a safe and stable environment for victims[165]
- supporting victims throughout all parts of the investigation process[166]
- providing victims with timely responses and information[167]
- ensuring that services are accessible to all victims from marginalised and disadvantaged groups[168]
- evidence-based decisions guiding the functions, operations, and design of the co-location and co-responder models[169]
- agencies committed to continuously strengthening interagency partnership.[170]

The Taskforce considers that the DJAG is best placed as the agency to lead this work. Requests for funding and policy approval to support a trial should be progressed jointly with the QPS.

Under a co-responder model, partner agencies would work collaboratively with agreed goals to deliver identified outcomes under the direction of a Memorandum of Understanding (MOU). Agencies can retain obligations to their own prescribed agency protocols, funding arrangements, and legislative requirements while operating in a collaborative framework.[171]

The design and implementation of a model should involve Aboriginal and Torres Strait Islander stakeholders and incorporate specific elements to address the needs of First Nations peoples. Stakeholders representing culturally and linguistically diverse people and people with disability (including intellectual and cognitive disability) should also be considered part of the model.

Co-response and co-responder models should be independently evaluated. An evaluation and monitoring plan should be developed and implemented before beginning a trial.

Human rights considerations

Domestic and family violence is recognised as a serious violation of an individual's human rights and a significant barrier to gender equality. Police have an obligation to exercise 'due diligence' to prevent, investigate, and respond to domestic and family violence.[172] They are also obliged to protect the right to life under the *International Covenant on Civil and Political Rights* (ICCPR).[173]

The *Human Rights Act 2019* aims to protect and promote the human rights of Queenslanders. This includes ensuring police act appropriately and in a way that is compatible with human rights when domestic and family violence is reported. There are some concerns that the use of risk assessment tools based on administrative data may skew decision-making in the future if based on poor practice. A key concern is that predictive and determinative tools will further marginalise already over-represented groups in the criminal justice system. To combat this, the risk assessment tools used, including those incorporating predictive analytics, should have a human rights approach.

Relevant divisions under the Human Rights Act that should be promoted through training and education for police are:

- 15: recognition and equality before the law
- 16: the right to life
- 17: protection from torture and cruel, inhuman or degrading treatment
- 25: privacy and reputation
- 26: protection of families and children

- 27: cultural rights – generally
- 28: cultural rights – Aboriginal and Torres Strait Islander peoples
- 29: the right to liberty and security of the person.

Collectively, these rights recognise that every person has the right to 'recognition as a person before the law and a right to enjoy the person's human rights without discrimination'.[174]

Evaluation

It will be necessary to monitor and evaluate outcomes rigorously — including internal QPS and external and independent measures — to ensure that the benefits of the Taskforce's recommendations are realised. Instead of implementing and counting initiatives and actions, the Queensland Government must evaluate reforms based on whether they have improved outcomes for victims and perpetrators. The monitoring and evaluation of outcomes should be published to ensure an open and transparent process.

In terms of measuring outcomes, the Taskforce has identified current gaps in knowledge. These are:

- a lack of consistency about the outcomes hoped for
- how these outcomes will be measured
- what data needs to be collected to provide indicators for these measures.

Monitoring and evaluation of outcomes related to a co-responder model trial should include cost-benefit analysis, taking into consideration the benefits and costs across the system broadly.

Evaluation should be undertaken externally to the QPS and overseen by joint oversight from across the government and non-government service system.

Conclusion

In this chapter, the Taskforce has discussed and made recommendations about how to continue to improve the police response to domestic and family violence. In doing so, we acknowledge the work that has already been undertaken and the efforts made since the *Not Now, Not Ever* report was released.

While much has been achieved, it is time for the QPS and the Queensland Government to do more to make victims safer and stop the violence by holding perpetrators to account.

The widespread harmful culture, attitudes, and beliefs that undermine efforts to improve the police response must be recognised and rebutted. The Taskforce has been alarmed to hear that women's complaints about domestic and family violence continue to be disbelieved, have their experiences minimised, or are turned away when they seek help to keep them safe. The over-policing of Aboriginal and Torres Strait Islander peoples in our state must also be acknowledged and resisted.

Police officers, who have significant powers and responsibilities, need skills, expertise, and support from within the QPS to respond effectively to coercive control and domestic and family violence. Victims need to know they can safely make a complaint about the police response to their case and be confident that it will be handled openly, accountably and independently so that the policing system can be improved.

As the knowledge and evidence about domestic and family violence grows and we understand more about its complex nature and impacts, we should recognise the police response as one critical component of an integrated and coordinated service system. We should trial and test promising new ways of working.

Improving the police response to domestic and family violence to deal with coercive control is critical to the success of any legislative reforms against it. The recommendations in this chapter are intended to work harmoniously with the recommendation in chapter 2.2 for an independent commission of inquiry (recommendation 2) into widespread harmful police culture. The police are the gatekeepers to justice for victims of domestic and family violence. They are uniquely placed to keep victims safe and hold perpetrators to account. They should exercise this great community trust with skill, expertise, and the best available tools and systems the QPS and the Queensland Government can provide.

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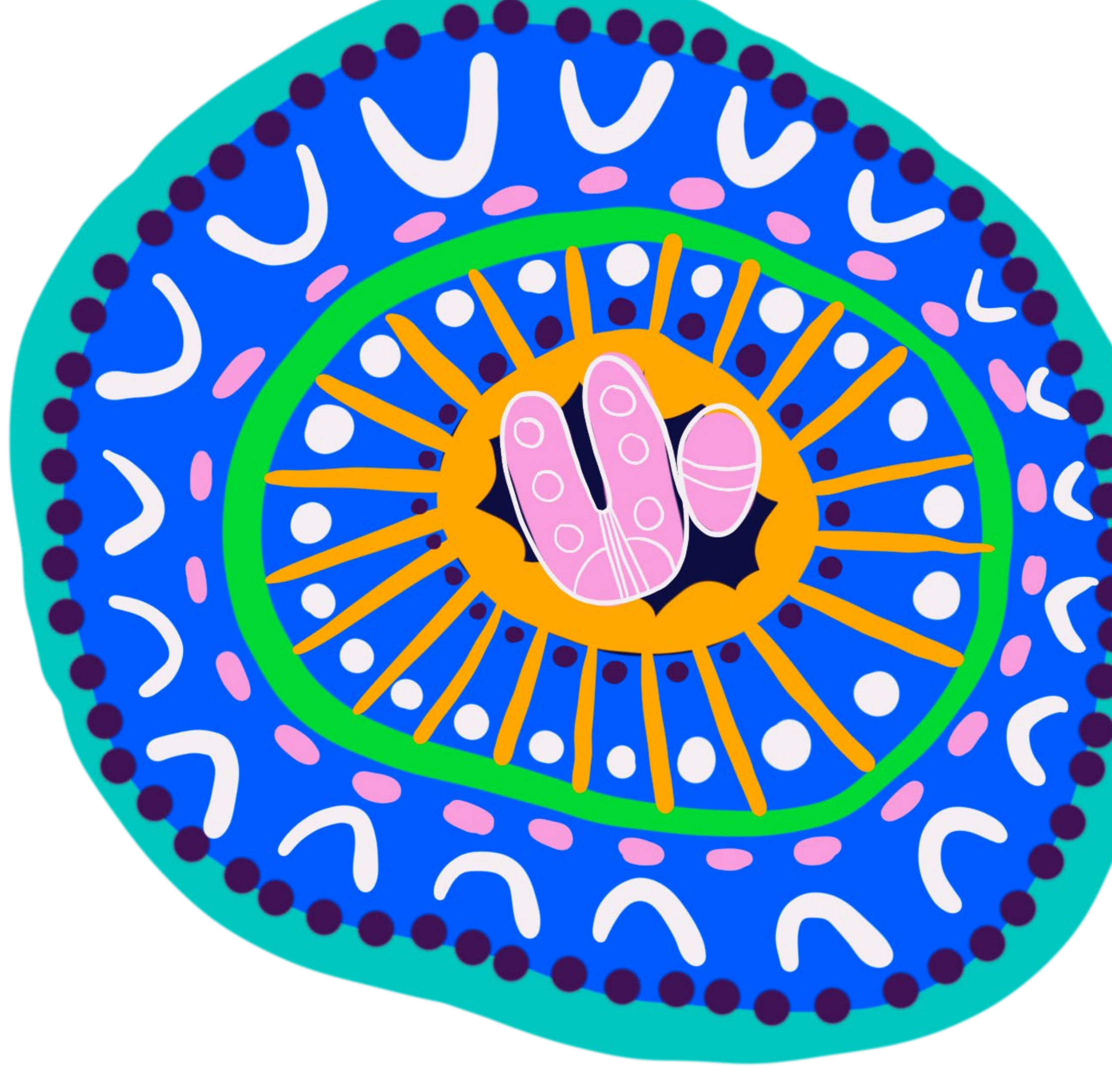

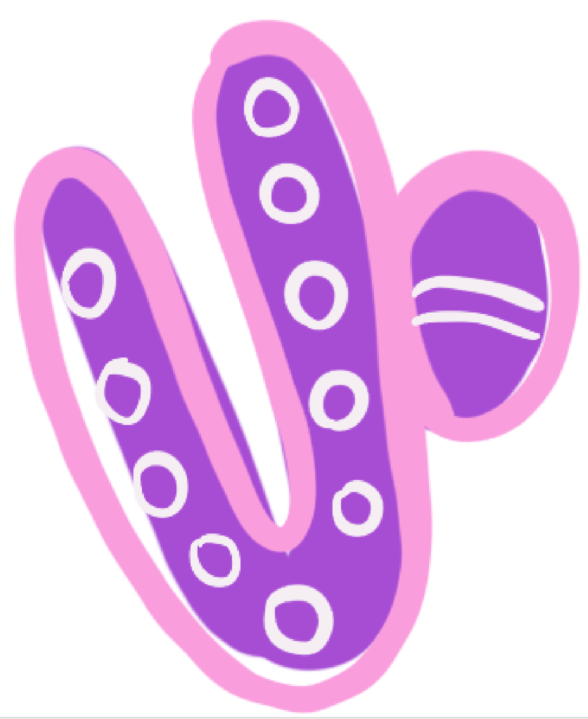

Chapter 3.6

Improving how lawyers and judicial officers respond

The Taskforce has heard that lawyers and judicial officers require a better understanding of domestic violence, including coercive control. To respond well to victims, they need to appreciate the complexities and acknowledge the emerging evidence.

> The effectiveness of legal professionals, be they solicitors or magistrates, will be dependent upon their knowledge and understanding of the nuances of how coercive control is used. As the effects of [domestic and family violence] are most easily noticeable with physical evidence (e.g. bruising, cuts and breaks of bones or objects), the characteristics of coercion are more often implicit and therefore apt to be overlooked.[1]

This chapter considers how education, training, and ongoing professional development for lawyers and the judiciary can be improved so that they better understand domestic and family violence and incorporate trauma-informed practice in their work. It also considers how to assist lawyers in navigating the complex ethical issues that can arise when they represent clients in domestic and family violence matters.

The successful implementation of the Taskforce's four-phase plan to address coercive control depends on the ability and willingness of lawyers and judicial officers to understand and respond appropriately to domestic and family violence.

What the Taskforce has heard about lawyers and judges

The Taskforce has heard some very favourable stories from individuals regarding the excellent legal advice and representation they have received and the high quality of judicial officers they have appeared before. The Taskforce have also heard many accounts of negative experiences.

The Taskforce has received submissions from victims who have described judicial officers as not being made aware of, or taking into account, a perpetrator's history of domestic and family violence, including when warrants relating to similar offending were outstanding.[2]

Some stakeholders described aggrieved persons in civil proceedings on an application for a Domestic Violence Order being expected to find and serve the respondent with documents, despite the *Domestic and Family Violence Protection Act 2012*[3] (DFVP Act) and *Domestic and Family Violence Protection Rules 2014*[4] making it clear that this is to be done by the police. This includes circumstances where respondents were transient or intentionally avoiding service. Some have advised that they were told if they failed to serve perpetrators themselves, they could not expect the protection of the court.[5]

Victims gave examples of lawyers perpetuating abuse on behalf of perpetrators in the form of aggressive flurries of correspondence containing distressing demands on victims and leading to delay in the court process. Delays are expensive for victims if they are legally represented and not in receipt of legal aid.[6] They are also distressing for victims.

Submissions have described victims being advised that they would not have to give evidence in the courtroom in person, only later to be advised that it would delay the proceeding for them to apply to give evidence from a remote room. This leaves the victim with a dilemma: give evidence in the presence of the perpetrator or have the matter adjourned.[7] Either option causes further distress to the victim.

The Taskforce has heard that lawyers may be hesitant to use evidence of domestic and family violence because they are not confident about how it will be received in court. 'Some are concerned that raising it will present a motive for the violence committed - rather than the court viewing the evidence as an explanation and potential basis for a defence.'[8] If domestic and family violence is thought to be dangerous to defendants, there may be a reluctance to raise it.[9]

We were given many examples of systems abuse whereby perpetrators use court processes to continue their abuse. These include:

- appearing only to seek an adjournment to obtain legal advice despite previously filing documents indicating they did not intend to contest an application
- seeking multiple adjournments, repeatedly causing a delay that results in financial hardship[10] for the victim
- bringing multiple applications before courts about different matters at the same time.

The Taskforce has also heard about perpetrators reporting the victim to multiple authorities, such as the Child Support Office, the Australian Tax Office, and Child Safety. Police require these allegations to be investigated, which means simultaneous court processes and a detrimental impact on the victim.[11] If judicial officers were more aware of the nature of perpetrator-tactics of domestic and family violence and coercive control, managing their court and balancing the right to a fair trial with the victim's rights might be much easier.

The Taskforce has heard examples of perpetrators making exaggerated or untested allegations about their victims' mental health and associated behaviour to authorities, who then record these allegations in the system as fact. For example, one victim, a person with disability, told the Taskforce during a face-to-face consultation forum that her perpetrator (also her carer) gave her an overdose of medication. When the ambulance arrived at her home, the perpetrator told the paramedics that she had an undiagnosed mental illness. She was unable to communicate to counter this information because she was drowsy and affected by the medication. This information was passed on and placed on hospital records. It then followed her and was used against her in subsequent family law parenting and property matters — as well as criminal proceedings against the perpetrator for a domestic violence offence. She felt that this put her in a position of having to disprove the perpetrator's false allegations.[12] Submissions to the Taskforce have suggested courts and lawyers should be more confident and better skilled at questioning the records and information before them in such circumstances.[13]

During face-to-face consultation forums, the Taskforce heard that there is a need for judicial officers to be trained in trauma-informed practice and given better information on the ramifications of domestic abuse.[14] We heard that, in some cases, prosecutors are not giving judicial officers the full criminal and domestic violence histories of offenders at sentence; consequently, they are being sentenced on a wrong basis. This poor prosecution practice may be partly explained by the volume of matters proceeding through the courts.[15]

Stakeholders also told the Taskforce that magistrates working in specialist courts do not always have the required expertise for the role. Specialist magistrates should have additional training and demonstrated competency before taking on these roles,[16] and after their appointment they should undergo further training.

The Taskforce has received submissions and heard from victims involved in a wide range of legal matters (for example, wills and estate, property and immigration, bankruptcy, and other civil proceedings) that have arisen from, or are influenced by, their experiences of domestic and family violence.[17] Submissions have been received about criminal matters involving allegations of domestic and family violence being held in courtrooms where the witness stand is located next to the dock and without protection for a victim giving evidence.[18]

Throughout consultations, the Taskforce has heard concerns expressed by various stakeholders that lawyers, magistrates, and judges must come to grips with the patterned nature of domestic and family violence and its impacts within the context of relationships as a whole. A better understanding of the gendered nature of this type of violence and the application of evidence laws to proceedings for domestic violence offences is needed. The Taskforce received strong feedback across the board that lawyers, magistrates, and judges need to build their knowledge and capability through ongoing education and training about domestic and family violence and coercive control.[19]

The law tends to focus on incidents alleged to occur at a particular point in time. This is especially the case in the criminal justice system, where offending behaviour is commonly considered more serious and deserving of a higher level of culpability when there is physical violence. A thorough understanding of domestic and family violence challenges this paradigm.

Lawyers and decision-makers need to understand the psychological and emotional harm caused by intimidating and controlling behaviour over time and the future risk of physical harm and lethality.

They also need to understand the complex and varied nature of trauma and its potential to have an ongoing impact.

A better understanding of coercive control is emerging, as is evidence of its insidious effects. There is an evolving recognition that this type of behaviour forms a pattern that shows itself over time in the relationship as a whole. All professionals working in every part of the justice system must maintain an up-to-date understanding of this type of violence and abuse.

Diversity in the Australian Legal Profession and Judiciary

When considering the make-up of the Australian legal profession and the judiciary, the importance of diversity, as well as competency and high ethical standards, is now widely recognised. Without compromising competency and ethics, the legal profession and judiciary should aim to reflect the diversity of the community they serve. There is a need for greater representation of First Nations peoples in the Australian legal profession and the judiciary, as well as culturally and linguistically diverse people and women.

The Law Council of Australia has developed a Diversity and Equality Charter, which is 'committed to promoting diversity, equality, respect and inclusion consistent with the principles of justice, integrity, equity and the pursuit of excellence upon which the profession is founded'.[20]

The Charter acknowledges the following:

> We recognise that diversity benefits the legal profession and the community as a whole. Accordingly, the Australian legal profession and its members:
>
> - treat all people with respect and dignity regardless of sex, sexuality, disability, age, race, ethnicity, religion, culture, or other arbitrary feature
> - create and foster equality through a supportive and understanding environment for all individuals to realise their maximum potential regardless of difference
> - promote and support a strong and fair legal profession comprising, accommodating, encouraging, and respecting a diverse range of individuals and views.[21]

Several organisations and legal firms throughout Australia, including the Queensland Law Society (QLS), the Bar Association of Queensland (BAQ), and Legal Aid Queensland (LAQ), have adopted this Charter together with equitable briefing policies aimed at increasing diversity.

The Taskforce recognises that diversity is an issue of importance to the Australian judiciary and legal profession. The judiciary is a branch of government at both state and federal levels and is a fundamental part of our democracy. The independent legal profession is also of institutional importance in upholding the independence of the judiciary should it be attacked by the legislature or the executive, or should a judicial officer lack the required independence to carry out their oath of office.

A functioning democracy requires a legal profession and judiciary that reflects as closely as possible the community it represents. A legal profession and judiciary that is gender and culturally diverse, and includes Aboriginal and Torres Strait Islander peoples, is important to the maintenance of public confidence in the profession and the courts. It is an important cross-cutting issue that the Taskforce will consider further as part of its second stage of work.

Legal education, admission, and practice for lawyers in Queensland

To become a lawyer in Queensland, a person must complete an approved law degree, fulfil practical legal training requirements, and apply to the Supreme Court of Queensland for admission to the legal profession.[22] Upon admission, lawyers who wish to practise must hold a practising certificate with the QLS or BAQ, except for government legal officers engaged in government work.[23] Those with a practising certificate must also undertake annual continuing professional development (CPD) training.[24]

Undergraduate and postgraduate study

The academic qualification and admission requirements for lawyers in Australia are developed by the Law Admissions Consultative Council (LACC), which works cooperatively with admitting authorities in each jurisdiction. In Queensland, these requirements are embedded through guidelines issued by the Chief Justice.[25]

The academic qualifications required for admission as a lawyer in Queensland are outlined in the *Admission Guidelines for Approving Academic Qualifications Number 1 (2019).*[26] The Guidelines issue *Prescribed Academic Areas of Knowledge,* set by the LACC, as the guidelines for approving academic qualifications. These prescribed areas of knowledge, which law schools Australia-wide must incorporate into their curriculum, are informally known as the 'Priestley 11'. Those subjects are:

- Criminal Law and Procedure
- Torts
- Contracts
- Property
- Equity
- Company Law
- Administrative law
- Federal and State Constitutional Law
- Civil Dispute Resolution
- Evidence
- Ethics and Professional Responsibility.[27]

The laws relating to domestic and family violence and family law are not captured in the Priestley 11. Although last updated in 2016, the Priestley 11 have not changed since their establishment by the LACC in 1992.[28] In 2018–2019, the LACC conducted a limited review of the Priestley 11. In submissions to the review, some legal bodies, including the QLS, advocated for a more comprehensive review and reconsideration of the areas of required knowledge.[29]

The Law Institute of Victoria (LIV) noted that the descriptions of the areas 'fail to include critical areas [including] family violence training'. The LIV submitted that 'family violence knowledge and skills competencies may be incorporated within [areas] such as criminal law or ethics and professional responsibility'.[30] Some legal and educational bodies, including the Legal Education Associate Deans Network, University of Western Australian Law School, and the Melbourne Law School, also advocated for the inclusion of education on the impact of laws on Aboriginal and Torres Strait Islander peoples, Indigenous perspectives, and cultural competency.[31] New prescribed areas of knowledge, due to be implemented on 1 January 2021, however, did not include the addition of family violence education.[32] In September 2020, LACC resolved to defer indefinitely the adoption of these new prescribed areas of knowledge.[33]

The Taskforce considers this work commendable and that it should be reinvigorated. The Taskforce supports the inclusion of education regarding the impact of laws on:

- Aboriginal and Torres Strait Islander peoples
- Indigenous perspectives
- cultural competency, and
- domestic and family violence.

Beyond the prescribed areas of knowledge, individual university law faculties choose their compulsory subjects and offer elective courses.[34] Family law, which is the subject most likely to include domestic and family violence content, is an elective subject in most law degrees offered in Queensland. While domestic and family violence content is included in some criminal law courses, it is more likely to be discussed in relation to criminal offences against the person, such as assault, rather than civil protection orders available under the domestic violence legislation. Given that criminal, civil, family, and child protection laws are taught separately, students may be encouraged to approach domestic violence offending through the lens of the criminal law, without reference to civil protection laws.[35]

The Law Council of Australia (LCA) and its Family Law Section provide strong encouragement for further education about family violence among law students and graduates.[36] In their recent report regarding the next National Plan to Reduce Violence Against Women and Children, the LCA suggested consulting with academic institutions regarding the potential incorporation of education on family violence into their curricula. Of the eight law schools in Queensland, some have already incorporated family violence into their degrees, including:

- Griffith University, which offers an undergraduate elective subject 'Domestic and Family Violence'[37]
- University of Southern Queensland, which offers an undergraduate elective subject 'Family Violence and Child Protection Law'.[38]

Some interstate universities, including the University of Sydney and the Royal Melbourne Institute of Technology, offer dedicated domestic and family violence subjects.[39]

In terms of postgraduate study:

- the Queensland University of Technology offers a Graduate Certificate in Domestic Violence Responses[40]
- Central Queensland University offers a Master of Domestic and Family Violence Practice; a Graduate Certificate in Domestic and Family Violence Practice; and a Graduate Certificate in Facilitating Men's Behaviour Change[41]
- the University of Melbourne offers a Graduate Certificate in Domestic & Gender-Based Violence Research and Practice42
- the Royal Melbourne Institute of Technology offers a Graduate Certificate in Domestic and Family Violence.[43]

After completing their academic studies, people wishing admission to the legal profession in Queensland must complete approved practical legal training (PLT).[44] The most popular way of completing PLT is to undertake a Graduate Diploma of Legal Practice through a PLT provider. Some graduates also complete PLT through a supervised traineeship.[45]

The requirements for PLT courses are set by the LACC and issued in Queensland by the Chief Justice through the *Admission Guidelines for Approving Practical Legal Training Requirements — Admission Guidelines Number 2* (2019).

Criminal practice and family law practice are optional areas for students undertaking PLT. The performance criteria for these optional practice areas include applications for Domestic Violence

Orders. However, there is no requirement for students training in these areas to cover the nature and impact of domestic and family violence or trauma-informed practice.[46]

The mandatory undergraduate law subjects and the PLT requirements are set nationally by the Law Admissions Consultative Council with consistency across Australian jurisdictions about the core curriculum requirements.

Internationally, in English-speaking common-law jurisdictions, including England, Scotland, New Zealand, and Canada, the structure and requirements of undergraduate law degrees are also based on a set list of foundation subjects.[47] As in Australia, there is no requirement for students to study a subject related to domestic and family violence in these jurisdictions.

The development of postgraduate programs in domestic and family violence in Australia suggests that there is an increasing demand for this knowledge and that teaching expertise is increasing in the area. However, under the current system, many undergraduate law students in Queensland will complete their law degrees without any understanding of the nature of domestic and family violence, the impacts of abuse, or the civil Domestic Violence Order legislative framework. There is also no requirement that applicants for admission to practice law in Queensland be educated about trauma-informed legal practice or the role that legislation and legal institutions have played in the colonisation of Australia and the resulting trauma for First Nations peoples.

The law degree curriculum also needs to incorporate the impact of laws on Aboriginal and Torres Strait Islander peoples, Indigenous perspectives, and cultural competency. The joint submission from Sisters Inside and the Institute for Collaborative Race Research highlights that racial violence enables:

> legacies of colonialism that continue to inhere in legislation, policies, practices and attitudes of the State and its agents, which are reflected in land ownership, wealth distribution, health statistics, and arrest and incarceration rates.[48]

Law graduates should obtain a degree and practical legal training that underpins their future practice. Given the broad-ranging impacts these complex social issues have across so many areas of legal practice, the Taskforce is satisfied that more should be done to embed these topics within undergraduate law programs and practical legal training courses. Universities and schools of professional practice for lawyers are well placed to develop and maintain contemporary courses on domestic and family violence, its impact on victims, and the legal implications of this type of behaviour. They are also equipped to develop and maintain courses that address the impact of laws and colonisation on Aboriginal and Torres Strait Islander peoples, Indigenous perspectives, and cultural competency.

Thorough and well-rounded undergraduate courses provide the foundation for the intellectual rigour of future legal practice. As well, they provide the opportunity to demonstrate the practicalities of a career in the law, which requires high-level, effective communication and interpersonal skills. They will better prepare lawyers to engage meaningfully with their clients and respond to complex human interactions. Practical components should also be embedded as part of undergraduate law courses. This would enable students to see and experience firsthand the complexities of legal practice, develop the skills required to take instructions and engage with clients and witnesses, and navigate the difficult ethical issues they are likely to confront regularly in their law practice.

Recommendation 38

The Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence request the Law Admissions Consultative Council to reconsider the new Prescribed Areas of Knowledge requirement for undergraduate students who want to progress to admission to practise law that was to commence on 1 January 2021 and was subsequently deferred indefinitely.

The Attorney-General Minister for the Prevention of and Minister for Justice, Minister for Women and Domestic and Family Violence should advocate for the new Prescribed Areas of Knowledge requirement to include that students study the impact of laws on Aboriginal and Torres Strait Islander peoples since colonial times, Indigenous perspectives and cultural competency, and the substantive law relating to domestic and family violence, including coercive control and its nature and impact on victims, the community, and the study and practice of law.

Courses relating to the experiences of the Aboriginal and Torres Strait Islander Peoples should be developed and delivered by Aboriginal and Torres Strait Islander peoples or Aboriginal and Torres Strait Islander Community Controlled Organisations, or both.

Findings

Currently, domestic and family violence and trauma-informed practice content is absent from undergraduate law degree programs and practical legal training courses, even though domestic and family violence is likely to affect the practice of all lawyers dealing with clients. Changes should be made to the admission requirements of lawyers in Queensland to require students to undertake study in domestic and family violence (including coercive control), trauma-informed practice, and the impact of colonisation and laws on Aboriginal and Torres Strait Islander peoples. This would enhance the knowledge and capability of all lawyers in Queensland.

This content should also be incorporated into law degrees and practical legal training courses. This will ensure a consistent knowledge base across these areas for all lawyers before they commence practice.

All lawyers require a base understanding of intersectionality and that underlying domestic and family violence can lead to and trigger interaction with and response from other systems — for example, Child Protection and Youth Justice.

Implementation

In addition to making a formal request to the Law Admissions Consultative Council, the Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence may wish to raise this issue at the Meeting of Attorneys-General forum and encourage other Attorneys-General from across Australia to make a similar request or consider a joint request on behalf of all Attorneys-General.

The National Agreement on Closing the Gap is committed to mobilising all avenues and opportunities to build formal Aboriginal and Torres Strait Islander community-controlled sectors to deliver services to support Closing the Gap.[49] Consistent with Priority Reform Area No. 2 and principles of self-determination, the Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence should advocate for the new prescribed areas of knowledge centres around the impact of laws on Aboriginal and Torres Strait Islander peoples to be

developed and delivered by Aboriginal and Torres Strait Islander peoples or Aboriginal and Torres Strait Islander Community Controlled Organisations (ACCOs), or both.[50]

The implementation of education and training in domestic and family violence subject matter must commence before the first package of legislative reforms come into operation.

Affected stakeholders are students intending to practise law in Queensland, Queensland universities, and PLT providers in Queensland. Consultation will need to take place with the Law Admissions Consultative Committee about the domestic and family violence subject matter required for admission as a lawyer in Queensland.

Human rights considerations

The recommendation is not expected to limit any human rights under the *Human Rights Act 2019* (the Human Rights Act).

Evaluation

Within five years, all Queensland University Law Schools and practical legal training providers should have incorporated into the curriculum: domestic and family violence, trauma-informed practice, and the impact of colonisation and laws on Aboriginal and Torres Strait Islander peoples.

Ongoing professional development requirements for practising Queensland Lawyers

The BAQ and the QLS are 'Regulatory Authorities' able to issue practising certificates and set CPD requirements in Queensland.[51] Once a person has been admitted as a lawyer in Queensland and obtained a practising certificate, they must complete a minimum of 10 CPD 'points' or 'units' per year.[52] Points can be obtained through activities such as attendance and presentation at conferences and seminars, and publishing articles in journals. At least one point must be completed in each of the mandatory core areas of practical legal training, practice management and business skills, and professional skills.[53]

While lawyers may opt to undertake domestic and family violence training in fulfilling their CPD requirements, there is no requirement for them to complete a minimum number of CPD points in domestic and family violence or trauma-informed practice. The scheme is based on self-assessment, and practitioners must consider their specific requirements for professional development and whether the activity for which they are claiming a CPD point will allow them to develop the knowledge or skills required for legal practice.[54]

CPD training of lawyers most likely to deal directly and frequently with domestic and family violence

The *Legal Profession Act 2007* (the Legal Profession Act) provides that government legal officers, including prosecutors working in the Office of the Director of Public Prosecutions (ODPP) and police prosecutors, are not required to hold a practising certificate.[55] Nor are they required to undertake CPD. The Department of Justice and Attorney-General does, however, *strongly recommend* that government legal officers comply with CPD requirements.

The Taskforce asked the ODPP, Community Legal Centres (CLCs), LAQ, and the Aboriginal and Torres Strait Islander Legal Service (ATSILS) to provide details of the CPD undertaken by their employed lawyers, including how they monitored attendance. (See Annexure A at the end of this chapter for a table that summarises the responses.)

Lawyers at CLCs in Queensland are responsible for monitoring their own compliance with QLS's CPD rules and are not required to attend specific CPDs on domestic and family violence. LAQ, ATSILS, and the ODPP record staff attendance at training. All stated that they provided opportunities for their lawyers to attend courses to improve and consolidate their knowledge of domestic and family violence. However, some offered more opportunities than others. It is of note that relevant mandatory training at the ODPP covers only the training to recognise and respond to domestic and family violence in the workplace and not domestic and family violence in the criminal justice system or a broader, victim-centric sense.

Specialist accreditation for Queensland lawyers

Queensland lawyers who have worked for a minimum of five years can apply under the QLS Specialist Accreditation Scheme to have their high level of competency and knowledge in 11 separate areas of legal practice, including criminal law and family law, formally recognised. The area of speciality must comprise at least 25% of their work.[56] The pathway to accreditation involves an application, a course, an assessment, and an accreditation fee. Accredited specialists must pay an annual re-accreditation fee and complete an extra five CPD points annually in addition to the 10 required to hold their practising certificate. A minimum of 10 of their total 15 CPD points must be in their area of accreditation.[57]

The specialist accreditation schemes for criminal and family law include some information about domestic and family violence. However, given the prevalence and impacts of this type of abuse across the justice system in both areas of the law, information about it and contemporary practice skills related to it should be more comprehensively embedded as part of these accreditation programs. There is currently no separate specialist accreditation scheme for practising in domestic and family violence.

The Taskforce is aware that work is going on at the national level concerning family violence CPD. The Law Council of Australia has long supported the benefits of training for lawyers in family violence.[58] In 2019, the Australian Law Reform Commission (ALRC) recommended that the Law Council of Australia work with state and territory regulatory bodies to develop a requirement mandating family law lawyers complete at least one CPD unit a year on family violence.[59] The Family Violence Working Group, which reports to the Meeting of Attorneys-General, is also considering measures to improve the family violence competency of professionals across family violence and family law systems.[60]

Legal Aid Queensland — preferred suppliers

Since 1998, private lawyers have been able to apply to LAQ to be added to their Preferred Suppliers List.[61] Preferred suppliers can perform legal aid work and help ensure that LAQ meets the demand for services, including in regional and remote areas where it may be more difficult to access LAQ offices.[62]

The Preferred Supplier List consists of sub-lists in the areas of family, criminal, and civil law. In general, applicants for sub-lists, including the civil law domestic violence list, must demonstrate three years post-admission experience in the relevant areas of law.

The exceptions are the family law and criminal law life offence lists, which each require five years post-admission experience and case studies of matters undertaken in the last two years of practice.[63] Applicants for all lists are required to 'demonstrate a satisfactory level of experience' in the applied-for area. They must describe the length and type of experience they have had and give examples of relevant matters, including details about:

- how they proceeded
- issues in dispute
- how they navigated the case
- the role they played.[64]

Applicants must also demonstrate appropriate knowledge of office set-ups and access, information security systems, supervisory regimes, and legal training and support systems. There are no additional requirements for the civil law domestic violence list.[65]

Once a lawyer is approved as a preferred supplier, the lawyer is expected to comply with the LAQ Case Management Standards relevant to the area of practice. Both the criminal and family law standards (which also apply to domestic and family violence matters) require lawyers to be aware of and comply with best practice guidelines, including the QLS and LAQ *Domestic and Family Violence Best Practice Framework for Legal and Non-Legal Practitioners* (discussed below).[66] CPD sessions and refresher training are provided free of charge.[67] A mentoring program is also offered, which involves an in-house practitioner mentoring a preferred supplier in a particular area of law. This primarily occurs in areas where LAQ has an acute service delivery gap.[68] LAQ reviews its preferred supplier lists to ensure lawyers who have expressed an interest have an opportunity to be considered and to enable additional service coverage where needed.[69]

While QLS Specialist Accreditation is not a requirement to become a preferred supplier, if a legal practice submits an application and confirms that solicitors within the practice have attained Specialist Accreditation in a relevant area of law, this is one factor considered when assessing the application.[70] LAQ also has its own internal specialist training and confirmation processes for some panel processes such as Independent Children's Lawyers. These are not aligned with QLS specialist accreditation.[71]

LAQ has developed a set of case management standards for file work and duty lawyer services in the domestic and family violence, family law, and child protection jurisdictions.[72] These standards represent the work expected when representing a client. They incorporate specific guidance for working with clients in matters that involve domestic and family violence. To ensure the quality of service delivered to clients, LAQ has established its own accreditation requirements for those practitioners providing duty lawyer services related to domestic and family violence. This training and accreditation process applies to all in-house practitioners and preferred suppliers. It must be completed before undertaking duty lawyer services in domestic and family violence specialist courts or other magistrates courts. Refresher training is also provided.[73]

Noting this information, the Taskforce considers that LAQ preferred suppliers working across Queensland are likely to have clients experiencing or perpetrating domestic and family violence. These lawyers should be required to participate regularly in education and training about domestic and family violence, including coercive control, and its impacts. LAQ needs to provide legal services for people with a grant of aid for a wide variety of legal matters across the state. All practitioners, including preferred suppliers, must have the knowledge and skills to meet their professional obligations and provide competent advice and representation to their clients. Lawyers on LAQ's preferred supplier sub-lists for criminal, family and civil law matters should be required to participate in regular domestic and family violence training either as part of their CPD requirements or through LAQ.

The Taskforce reinforces the importance of the requirement of regular high-quality professional development in domestic and family violence for all lawyers who work in criminal, family, and civil law areas.

It is reasonable to assume that, for the moment, most lawyers learn about domestic violence only in a general way, over time, and 'on the job'. This might account for the observation by the Australia Law Reform Commission in 2010 that lawyers lack confidence in assessing domestic violence.[74]

In recent years, there has been prolific growth in national and international research providing a greater understanding and evidence base about domestic and family violence and coercive control, including the patterned nature of this behaviour over time and in the context of the relationship as a whole. The application and understanding of trauma-informed practice, while well established in mental health and human services, are yet to be fully embraced in legal practice. Lawyers should regularly participate in professional development about this important topic to enable their practice to remain contemporary and responsive to the needs of their clients and to meet their ethical duties and obligations.

The Taskforce has also observed an opportunity to better integrate the legal profession within service system responses to domestic and family violence. All lawyers should have a current understanding of local domestic and family violence support services, including those supporting victims and perpetrators, and the knowledge to refer clients to services and supports. Seeking legal advice and information, including about issues that may not be directly or initially related to domestic and family violence, is a critical intervention point. Lawyers have a significant role to play in linking their clients to the broader service system. Lawyers who practise in domestic and family violence law across criminal, family, or civil laws need to have well-established relationships with local service providers.

Resources to assist Queensland Lawyers

Conduct Rules

As discussed in this chapter, the Taskforce has been told of lawyers continuing abuse on behalf of perpetrators in the form of, for example, aggressive barrages of communication.[75] The role of a lawyer in the legal process includes a primary duty to the court and the administration of justice. Challenges are likely to arise when representing a perpetrator of domestic violence and coercive control. There may be multiple complex proceedings on foot at the same time, including civil proceedings for an application for a Domestic Violence Order, criminal proceedings, and family law proceedings. While it is the role of the lawyer to protect their client's interests, it is not simply to be a mouthpiece for their client if that results in continued harassment and intimidation of a victim. The Taskforce has heard about other complex cases involving ethical issues for lawyers across a broad range of areas of the law, including succession, property law, insolvency, and bankruptcy cases. All lawyers who have client contact should have a current understanding of domestic and family violence — including coercive control, its impacts, and how to deal with those suffering trauma.

All solicitors within Australia are subject to the *Australian Solicitors' Conduct Rules 2012* (Solicitors' Conduct Rules). The Solicitors Conduct Rules 34.1.1 and 34.1.3 make it clear that a solicitor must not in any action or communication associated with representing a client make any statement that intimidates another person. Nor must the lawyer use tactics that go beyond legitimate advocacy and are primarily designed to embarrass or frustrate another person.

These rules provide some guidance on how a lawyer should deal with an alleged victim. Queensland lawyers are also subject to a number of Acts, Rules, and Regulations. The Legal Profession Act and *Legal Profession Regulation 2017* provide for the regulation of legal practice in Queensland (for example, admission and practising certificate requirements), the protection of consumers (indemnity insurance, trust money and accounts), and the public generally (disciplinary actions).[76]

Barristers must comply with the 2011 Barristers' Rules, as amended.[77] The Barristers' Rules largely reflect the Solicitors' Conduct Rules. While the rules and regulations provide significant guidance as to how lawyers are to conduct themselves and their matters generally, they make no specific reference as to how lawyers should navigate matters involving domestic and family violence.

The Taskforce has heard that practitioners can face ethical issues and have difficulty balancing their various onerous obligations if they become too emotionally invested in a case or fail to understand that their duty to protect their client's interests is subject to their overriding duty to the court and the administration of justice. Sole practitioners can be particularly vulnerable to this as a result of their isolation.[78] It is vital, therefore, that as a profession lawyers support each other and that all lawyers have a professional support network providing professional development and advice, including advice about ethics and professional obligations. Professional development should specifically include training on ethical dilemmas lawyers face in day-to-day practice, including those that involve domestic and family violence. This would assist lawyers to better understand and identify the ethical issues they may confront in domestic violence-related practice and to interpret and apply the Conduct Rules and obligations in those contexts. This is an important proactive and preventative way of improving legal practice in these complex cases in Queensland.

The professional network available to a lawyer might include other local lawyers and their local district law association.[79] The QLS provides members with complimentary counselling and professional support including:

- QLS Ethics and Practice Centre, a team of experienced solicitors, led by the Principal Ethics and Practice Counsel, who provide ethics guidance and advice to QLS members. Even if an ethical issue relates to a sensitive matter, lawyers are permitted to discuss it in this confidential forum under Rule 9.2.3 of the Solicitors Conduct Rules[80]
- QLS Senior Counsellors, who link members with experienced practitioners to provide confidential guidance on any professional or ethical problem. The service is akin to 'calling a professional friend' and can be used anonymously.[81]

Like the QLS, the BAQ offers members a range of benefits and services, including:

- an established panel of Queen's Counsel that provides confidential pro bono guidance for any member facing an ethical issue in their practice[82]
- a 'New Bar Support List' of barristers who provide support to new barristers[83]
- free CPD seminars on the mandatory categories, including ethics. Recently this included a seminar 'To run or not to run: The ethics of difficult briefs' which was conducted on 16 November 2021.[84] A free CPD library is also available.[85]

These are valuable resources that lawyers should be encouraged to access, including when acting for clients in matters related to domestic and family violence.

Domestic and Family Violence Best Practice Framework

In October 2020, LAQ, in collaboration with QLS, launched the *Domestic and Family Violence Best Practice Framework*[86] (the Framework), to guide lawyers and non-lawyers in delivering services to people affected by Domestic and Family Violence.[87] These built upon the LAQ's *Best Practice Guidelines Framework* developed in 2000 for working with clients affected by domestic and family violence and acknowledged favourably in the *Not Now, Not Ever* report.[88]

The new Framework includes seven best-practice principles for working with clients experiencing domestic and family violence, the first of which is to 'improve your understanding'.[89] This principle emphasises the necessity that practitioners:

- can recognise the warning signs of domestic and family violence and respond and refer appropriately
- know and understand the dynamics of domestic and family violence, how control can manifest and the impact of vulnerabilities and trauma
- be aware of the breadth of issues covered in the relevant legislation.

It also encourages practitioners to:

- undertake regular professional development and skills advancement in recognising and responding to domestic and family violence particularly where high-risk indicators of intimate partner homicide are present, and
- be aware of referral pathways and options to enhance safety and mitigate risk.[90]

While developing and maintaining skills related to domestic and family violence law are encouraged by the Framework, it is a guide only. It does not mandate these skills as a core competency.[91]

The Framework is a practical guide for lawyers working in various areas of the law. It references that domestic and family violence is a pattern of behaviour over time and that behaviours that are not physically violent may still be frightening and harmful. It also provides practical advice about some of the ethical dilemmas lawyers may face when acting for perpetrators of violence. It should, nonetheless, be reviewed as part of the response to this report — for example, to incorporate a definition of coercive control. There is also an opportunity for the Framework to be promoted and used by lawyers more broadly.

Family Law — Best Practice Principles

The 'Family Violence Best Practice Principles' (the Principles) were first published in 2009 and are updated regularly by the Family Court and the Federal Circuit Court. They are a resource to assist the work of lawyers and judges in the family courts.[92] The Principles recognise the harmful effects of domestic and family violence, including coercive control, on victims and children. They also recognise the need for the court to give specific attention to these issues during case management and the designing of orders to keep victims and children safe.[93] The latest 2016 amendments recognise that victims of domestic and family violence are often traumatised and vulnerable witnesses. To achieve a fair hearing, courts must use their powers in a way that avoids re-traumatising victims.[94]

In addition, the Family Law Council and Family Law Section of the Law Council of Australia have developed the 'Best Practice Guidelines for Lawyers Doing Family Law Work' (the Guidelines). The Guidelines were most recently updated in 2017 and have a section on family violence, which assists lawyers by reminding them of the need to:

- recognise family violence
- screen clients accordingly
- be sensitive to the diverse needs and experiences of people from diverse backgrounds and cultures
- not be judgemental
- keep pamphlets of support services on hand
- consider whether the client needs a protection order.

The Guidelines encourage lawyers to take a trauma-informed approach by highlighting that 'even where family violence does not emerge as an issue at the initial interview, the possibility of violence should be kept under review at all times'. Again, there is no requirement that lawyers practising in this area use or have knowledge of the Guidelines — they are an optional aid only.

Trauma-informed practice

Trauma-informed approaches are increasingly well understood in mental health and other human service areas but are relatively new in the law. There is a growing understanding that 'more effective, fair, intelligent, and just legal responses must work from a perspective which is trauma informed'.[95] A trauma-informed practice involves understanding what trauma is and how it can affect the people who experience it. It also recognises the impact that working with issues related to trauma can have on lawyers.[96]

Trauma is a state of high arousal that stems from coping mechanisms being overwhelmed in response to extreme stress. Our usual 'survival' responses ('fight,' 'flight' and 'freeze'), activated by the perception or experience of threat, are initially protective and only become pathological if the traumatic experience is not resolved soon after the precipitating event.[97]

Unresolved trauma compromises core neural networks and disrupts their integration (the way neurons wire together). It affects all areas of functioning and radically restricts the capacity to respond flexibly to daily stress and life challenges.

The term 'complex' trauma describes exposure to multiple traumatic incidents. It also refers to the impacts of those exposures. Complex trauma is cumulative, repetitive, and interpersonally generated, frequently involving betrayal by caregivers.

Complex trauma:

- usually occurs between people
- can occur as a result of repeated trauma as a child, young person, or adult
- often involves 'being or feeling' trapped
- is often experienced in response to planned, extreme, ongoing or repeated violence
- often has more severe, persistent, and cumulative impacts
- often involves challenges with shame, trust, self-esteem, identity, and regulating emotions.[98]

While trauma is pervasive throughout society, it occurs in diverse ways. This means that it may be experienced differently according to cultural, gender, age, socioeconomic, religious, and other factors, including identities. These, in turn, affect experiences of services.

The 'Practice Guidelines for Clinical Treatment of Complex Trauma' states:

> Trauma affects us all, directly or indirectly. Many people live with the ongoing effects of past and present overwhelming stress (trauma). Despite the large numbers of people affected, many of us often don't think of the possibility that someone we meet, speak with or support may have experienced trauma. This makes us less likely to recognise it.[99]

Trauma can manifest in many ways, including how clients present and interact with others. Impacts of trauma can include:

- fragmented memories
- hyperarousal
- persistent feelings of hopelessness
- flashbacks and intrusive thoughts

- withdrawal and avoidance
- anger and unpredictable emotions
- emotional numbness
- dissociation
- physical symptoms such as nausea, headaches, or tics
- loss of sleep and appetite
- intense feelings of guilt and shame.[100]

Trauma-informed approaches incorporate an understanding of the widespread impact of trauma and the potential paths for recovery. They also enable practitioners to recognise the signs and symptoms of trauma in clients, families, staff, and others they work with so that they can provide responses that integrate knowledge about trauma in policies, procedures, practices, and service delivery. Most importantly, any trauma-informed practice seeks to resist re-traumatization.[101]

For Aboriginal and Torres Strait Islander peoples, trauma-informed practice incorporates understanding the ongoing impacts of colonisation and the nature and ongoing impact of intergenerational trauma. For example, a child whose parent was traumatised as part of the stolen generation is likely to be traumatised by the parent's trauma. This intergenerational trauma can trace back to the devastating effects of colonisation on First Nations people.

A trauma-informed practice is based on a set of core principles that include basic knowledge of the impacts of stress on the brain and body. It places the emphasis on safety, trustworthiness, choice, collaboration, and empowerment.[102] This is often described as doing things with a client rather than for or to them. Principles also include an emphasis on the way services are provided and the context of their delivery rather than just what the service is.

Trauma-informed principles focus on what has happened to a person rather than what is wrong with the person. They recognise that behaviours may be the product of coping mechanisms a person has developed to keep themselves safe in stressful circumstances in the past. They also focus on strengths-based approaches that acknowledge a person's skills despite the experiences they have had.

Trauma-informed principles and practice are highly relevant to the practice of law and can arise in any area of legal practice involving client contact. Research on trauma-informed practice for lawyers has shown that it not only provides a high-quality service for clients but also helps maintain the wellbeing of lawyers.[103] There are some helpful resources available online for lawyers wanting to incorporate a trauma-informed approach into their practice, and the *Domestic and Family Violence Best Practice Framework* referred to above incorporates some elements. But there is no clear and instructive trauma-informed framework for practice for lawyers in Queensland. The Taskforce will consider trauma-informed practices more broadly across the criminal justice system as part of our second stage of work.

Findings

All lawyers should regularly participate in CPD training about domestic and family violence and trauma-informed practice, so that their practice remains contemporary and responsive to the needs of their clients, and they meet their ethical duties and obligations.

All lawyers should have a current understanding of domestic and family violence, including service system responses to it. Lawyers who practise in the areas of criminal, family, or domestic violence law must have a well-established relationship with local service providers.

There is a need to incorporate domestic and family violence subject matter into the QLS Specialist Accreditation Scheme for the criminal law and family law areas of specialty. These areas of specialty frequently involve matters related to domestic and family violence, and practitioners must have a sound knowledge base across this area.

Lawyers employed by the ODPP, the Queensland Police Service (QPS), and LAQ should be required to participate in regular domestic and family violence training. This training should form part of their CPD requirements or be offered by the ODPP, QPS, and LAQ. Lawyers on LAQ's preferred supplier lists for criminal law, family law, and civil law matters should be required to participate in regular training on the law relating to domestic and family violence. This training should form part of the CPD requirements or be offered by LAQ.

The *Domestic and Family Violence Best Practice Framework* should be reviewed, coercive control behaviour incorporated, and the Framework should be implemented more widely across the legal profession in Queensland.

At present, the training for lawyers about domestic and family violence, including coercive control and its impacts, and the need for a trauma-informed practice, is insufficient. Domestic and family violence is an area that must be understood from both legal and social perspectives. It requires training in the law as well as an understanding of it in a social context. There is a need to incorporate domestic and family violence subject matter across all legal practice in Queensland. It is recommended that this occurs in multiple ways to ensure that all lawyers have a current understanding of the area.

Chapter 1.1 discussed the concept of intersectionality. Multiple and intersecting layers of structural inequality (such a racism, sexism, ageism, and ableism) influence the experiences of victims from diverse backgrounds and contribute to their vulnerability. The impacts of abuse can be further compounded for people with intersectional diversity. Lawyers need to understand this vulnerability and how a person's experience of domestic and family violence intersects with other service responses — for example, it can trigger an interaction with the Child Protection and Youth Justice systems.

Lawyers employed by the ATSILS, LAQ, and CLCs are required to hold practising certificates and undergo CPD training.[104] However, government legal officers, including those employed by the ODPP and QPS who prosecute matters involving domestic and family violence in Queensland's courts every day are not subject to any mandatory requirements[105]. The Taskforce considers it is vital that all practising Queensland lawyers receive the same high level of CPD training.

Ongoing mandatory and regular CPD training in domestic and family violence and trauma-informed practice is essential. The inclusion of domestic and family violence subject matter into ongoing training will ensure a consistent knowledge base for all lawyers, whether practising in domestic and family violence law across the criminal, family or civil jurisdictions in Queensland or likely to encounter domestic and family violence in general civil areas of practice like succession, property, bankruptcy, or corporate law.

While recognising that priority should be given in the first instance to those practising in domestic and family violence law, education in this area will enhance the knowledge and capability of all practising lawyers. It should include as minimum requirements:

- the nature of domestic and family violence and coercive control as a pattern of behaviour over time and its impacts for victims
- the domestic and family violence service system and how and when to refer clients to services and supports
- ethical obligations and considerations when acting for victims or perpetrators of violence
- trauma-informed approaches and how principles can be incorporated into legal practice
- all current legislative options that can be used to address coercive control (including the provisions relating to relationship evidence)
- specific training to support the implementation of all legislative reform progressed in response to the Taskforce's report and future relevant reform.

This training is intended to equip all practising lawyers with the knowledge and skills to better recognise and respond to patterns of abuse evident in a domestic relationship. Key legal stakeholders should take responsibility for the ongoing training of lawyers and the development of a trauma-informed practice framework, with input from academics, service providers, and relevant experts.

Recommendation 39

The Queensland Government work with the Bar Association of Queensland and the Queensland Law Society to ensure that all lawyers in Queensland have a current understanding of the nature and impact of domestic and family violence, including coercive control, the substantive and procedural law, and how to refer clients to services and supports.

Recommendation 40

The Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence, in consultation with the Queensland Law Society and Bar Association of Queensland, amend the Queensland Law Society Administration Rule 2005 and the Bar Association of Queensland's Administration Rules to require all lawyers in Queensland to regularly complete continuing professional development (CPD) points in domestic and family violence and trauma-informed practice as a requirement of retaining their practising certificates.

Recommendation 41

The Office of the Director of Public Prosecutions and Queensland Police Service in relation to police prosecutors, Legal Aid Queensland, and community legal centres, including the Aboriginal and Torres Strait Islander Legal Service, require all legal staff to participate in regular training on the nature and impact of domestic and family violence, as well as on the relevant law. Training will include an understanding of local support services for both victims and perpetrators and how to refer people to them. Participation in training should be recorded as part of continuing professional development and reported in each organisation's annual report.

Recommendation 42

The Queensland Law Society ensure that the specialist accreditation schemes for criminal law and family law include a requirement for lawyers to have specialist understanding of the nature and impact of domestic and family violence, the relevant law, the local support services available for both victims and perpetrators, and how to refer clients to services and supports.

Recommendation 43

Legal Aid Queensland require that lawyers on its preferred supplier lists for criminal, family law and civil law participate in regular training on the nature and impact of domestic and family violence, as well as the substantive and procedural law. Training should include an understanding of the local support services and how to refer to them. Participation in training should be recorded and reported in its annual report.

Recommendation 44

The Queensland Law Society and the Bar Association of Queensland ensure that supports and services provided to lawyers to help them navigate ethical issues include a focus on the complex ethical issues likely to arise both in domestic and family violence-related legal practice and from domestic and family violence across all practices.

Recommendation 45

The Queensland Law Society and Bar Association of Queensland promote and encourage lawyers practising both in domestic and family violence-related areas of the law and across all areas of practice to access services and supports for ongoing and early support and assistance, such as the QLS ethics advice service, district legal committees, and ethics-focused professional development.

Recommendation 46

Legal Aid Queensland and the Queensland Law Society update the *Domestic and Family Violence Best Practice Framework* to incorporate changes resulting from this report's recommendations, and promote greater use of the Framework across all parts of the legal profession including government lawyers and members of the Bar.

Recommendation 47

The Queensland Law Society and the Bar Association of Queensland develop and implement a trauma-informed framework for practice for lawyers in Queensland.

Implementation

The Taskforce suggests that the Queensland Government establish a working group with senior leaders in the BAQ, QLS, LAQ, ODPP, and the Police Prosecution Corps (PPC) to ensure that these recommendations are implemented per the timeframes for introduction, passage, and commencement of legislative amendments recommended by this report.

Amendments to the

- Queensland Law Society Administration Rules 2005
- Administration Rules of the Bar Association of Queensland, and
- Domestic and Family Violence Best Practice Framework

should be finalised by the commencement of the second part of legislative reform in 2023-2024, as recommended by this report in chapter 3.9.

New CPD and trauma-informed training programs should also commence well before the commencement of the proposed new offence of coercive control in Queensland in 2024.

The QLS and the BAQ should monitor the requirement that all lawyers undertake CPD training in domestic and family violence and trauma-informed practice. There should then be regular training offered to lawyers in the form of CPD seminars. These bodies should also establish Domestic and Family Violence CPD streams.

As soon as possible, the QLS Specialist Accreditation Scheme should incorporate training in domestic and family violence and trauma-informed practice within the criminal law and family law areas of specialty. It is essential that training content is up-to-date and that knowledge cascades to programs and is available to all lawyers. The Taskforce suggests that a centralised hub or clearinghouse for knowledge, including current research and any significant changes, would be a valuable resource.

For lawyers working in government organisations or LAQ, training may be monitored by the organisation — but all organisations, including the ODPP and PPC, should report publicly and transparently about compliance with improved training practices.

Human Rights considerations

Section 31 of the Human Rights Act states that:

> [a] person charged with a criminal offence or a party to a civil proceeding has the right to have the charge or proceeding decided by a competent, independent and impartial court or tribunal after a fair and public hearing.[106]

To ensure that this occurs, lawyers need to be appropriately trained in domestic and family violence subject matter. Implementing such training for lawyers, along with ongoing training as part of the CPD requirements to maintain a practising certificate, will increase competence in dealing with this subject matter and will, in turn, promote the human right to a fair hearing.

More broadly, section 15 of the Act acknowledges that 'every person has the right to recognition as a person before the law'.[107] It also acknowledges that 'every person is equal before the law and is entitled to the equal protection of the law without discrimination'; and that 'every person has the right to equal and effective protection against discrimination'.[108] The training of all lawyers in domestic and family violence will help achieve consistency across the profession and raise professional standards. This promotes the human right that every person is equal before the law.

The training of lawyers in domestic and family violence and trauma-informed practice is not expected to limit any human rights under the Human Rights Act.

Evaluation

Within five years, all Queensland practising lawyers, but particularly those practising in the area of domestic and family violence law, whether within the criminal, family, or civil law, should have a fundamental understanding of domestic and family violence and its impacts.

When the legislative package recommended by this report is reviewed five years after commencement (recommendation 84 and chapter 3.8), the Queensland Government should consider the impact of these recommendations on the success of the legislation.

Judicial officers

The courts apply and determine the law in both civil and criminal matters. They make decisions and orders in civil disputes. Sometimes, together with juries, they hear trials for people charged with criminal offences. Courts punish those convicted of offences.

Australia's system of government is broadly based on England's Westminster principles, including the doctrine of the Separation of Powers, and it has three branches — the parliament or the legislature, the executive, and the courts. Under this system of government, the parliament makes the laws, the executive government carries out and enforces those laws, and the courts impartially apply and interpret the laws in individual cases.[109] Each branch of government has its own powers and authority, including some power over the other two branches. It is, therefore, critically important that the courts remain independent from the other two arms of government.

This independence is a vital safeguard against political corruption and is a cornerstone of democracy. For this reason, the notion of judicial education dictated by the legislature or the executive could be considered improper, at least if it could be perceived to be influenced corruptly by the other branches of government.

Judicial training was seen as unnecessary until comparatively recently. Judicial officers were largely appointed from the bar and only after gaining extensive experience practising law so that it was thought ongoing training was unnecessary .[110] These views started to change with the:

- expansion of the professional pool from which judicial officers were drawn
- the appointment of lawyers rather than public servants as magistrates
- the exponential growth of new legislation
- the increasing pace of social change
- greater public scrutiny of controversial judicial decision-making.

Independent judicial professional development and training are now recognised widely as supporting a positive culture of lifelong learning essential to professional competence. Judges now accept:

> that even a full and varied career as a leading barrister may not be enough to prepare the practitioner to handle the variety of judicial work now performed in courts of general jurisdiction as well as in the specialised courts and tribunals that include judicial members.[111]

Judicial professional development may also prevent judges from making ill-advised comments in socially sensitive cases.[112]

Nevertheless, neither the legislature nor the executive must dictate judicial education. Judicial education that is voluntary, controlled by judges (albeit with input from experts in relevant fields), collaborative, and of a high quality positively assists judicial officers to maintain independence[113] by enabling them to navigate the complex social contexts and diversity of cases that come before them.

It improves public confidence in the judiciary. It may also allow judicial officers to better support each other and to build on the experience and expertise of other members of their profession.

Professional development of judicial officers in Queensland

Since 2004, the National Judicial College has set the national standard for the amount of time the Australian judiciary should spend on professional development. The standard has been endorsed by the Council of Chief Justices of Australia, Chief Judges, Chief Magistrates, the Judicial Conference of Australia, the Association of Australian Magistrates, the Australian Institute of Judicial Administration, and judicial professional development bodies.[114]

The standard, most recently reviewed in 2010, provides that:

> - on appointment a judicial officer should be offered, by the court to which he or she is appointed, an orientation program. The program should inform the judicial officer about the work and functioning of the court and within 18 months of appointment a judicial officer should have the opportunity to attend a national orientation residential program of about five days' duration
> - each judicial officer should be able to spend at least five days each calendar year participating in professional development activities relating to the judicial officer's responsibilities.[115]

The 2010 review included a survey of judicial officers in all jurisdictions in Australia.[116] Overall across Australia, 68% of judicial officers who responded met or exceeded the five-day standard.[117] Of the Queensland judicial officers surveyed, 61% met or exceeded the standard, behind NSW (66%), the Australian Capital Territory (66%), the Northern Territory (80%), Victoria (83%), and Western Australia (76%).[118] The survey response rate of judicial officers was 30% in Queensland, with rates varying between 10% and 46% throughout the different Australian states and territories.[119]

It is noteworthy that the 2020 Australian Government Productivity Commission Report on Government Services indicated that overall, Queensland and the Australian Capital Territory had fewer full-time civil and criminal judicial officers per head of population than all the other States and Territories. Nationally, in 2018–19, there were 4.6 full-time judicial officers in the criminal and civil courts per 100,000 people in the population, with numbers varying from 3.3 up to 11. Queensland had the fewest at only 3.3.[120] This number is particularly low given Queensland's unique characteristics — second-largest geographical area, third-largest population, and the most decentralised — and the additional time required to deliver justice to remote and regional areas.

The Productivity Commission Report treats judicial officers as one of 12 indicators of the government's achievement against the objective of providing services that enable courts to be open, accessible, and affordable. While an updated survey of judicial officer participation in professional development is not available, it may be that the workload of Queensland judicial officers leaves them with less time to participate in professional development than officers in many other states and territories.

Queensland's geographical size and dispersed population mean that some judicial officers live in regional and remote locations where they often work in courts without the support or backup of professional peers. This may also decrease their availability for professional development. In correspondence with the Taskforce, the Department of Justice and Attorney-General advised that there is no specific source of funding for backfilling magistrates when they are away in training programs.[121]

Under the *Judicial Remuneration Act 2007*,[122] judges of the District and Supreme Courts in Queensland receive an annual jurisprudential allowance as part of their total remuneration package, which they can claim either as reimbursement of the costs of self-education or as part of their salary. District and Supreme Court judges also receive an allowance that can be claimed as reimbursement for the costs of office, including for attending functions, conferences, and conventions, associated travel and accommodation costs, and academic activities.[123]

There is very little information on the public record about the amount or nature of the training or professional development undertaken by Queensland judicial officers despite those costs being paid for by Queensland taxpayers. Recently, that may be in part because the pandemic has limited physical attendance at state, national, and international conferences.

The Taskforce largely sourced the following information from the annual reports of each Queensland court jurisdiction, with the Magistrates Court Annual Report providing the most detail.

Magistrates Courts

Recommendation 105 of the *Not Now, Not Ever* report was that the Chief Magistrate ensure that magistrates receive intensive and regular professional development on domestic and family violence issues, including their impact on adult victims and children, from domestic and family violence practitioners who have expertise working with adult victims, children, and perpetrators. The Queensland Government supported this recommendation,[124] and professional development opportunities for magistrates have since improved.

In response to this recommendation, the Magistrates Courts Service now employs a 0.5 FTE (Full Time Equivalent) Principal Legal Officer within the Office of the Chief Magistrate with the role of coordinating judicial professional development for magistrates on issues related to domestic and family violence. The Taskforce understands that this role is unique to Queensland.[125] The Principal Legal Officer judicial education coordination role consists of:

- organising the annual Magistrates Domestic and Family Violence conference
- arranging domestic and family violence sessions for the Magistrates Annual State Conference and the Regional Conferences
- organising regular lunch-time seminars on topics relevant to domestic and family violence
- updating the *Domestic and Family Violence Protection Act Benchbook*
- conducting relevant induction sessions with new magistrates and acting magistrates
- drafting 'CM Notes' of recent domestic and family violence case law
- producing the Chief Magistrate's *Domestic and Family Violence Newsletter*, containing recent case law and legislation updates, articles and research reports, news items etc. The newsletter is publicly available on the court's website
- supporting the Chief Magistrate and Deputy Chief Magistrates as required in relation to domestic and family violence proceedings (for example, facilitating consultation between stakeholders and the CM on issues related to domestic and family violence, reviewing domestic and family violence procedures etc.).[126]

In September 2021, Queensland magistrates attended a specialist two-day domestic violence conference with a focus on 'A Protective Jurisdiction: Current Issues and Practice'. Topics covered included:

- case law update
- vicarious trauma, self-care and building resilience

- the 'person most in need of protection' in domestic and family violence law
- panel discussion: Learnings from the Domestic and Family Violence Death Review Advisory Board and predictive risk factors
- working with victims and perpetrators: reducing harm, holding perpetrators accountable and protecting the vulnerable
- applying the risk factors (including in bail applications)
- Women's Safety and Justice Taskforce
- United Nations Office on Drugs and Crime: Handbook for the Judiciary on Effective Criminal Justice Responses to Gender-based Violence against Women and Girls
- understanding the role of Law and Culture in Aboriginal and Torres Strait Islander communities in responding to and preventing family violence
- impacts of domestic and family violence on brain development in children
- running a fair hearing.[127]

The Magistrates Court expects that all newly appointed magistrates will attend these conferences. The remaining magistrates rotate through on a five-yearly basis.[128] Recordings and materials of past conferences since 2017 and seminars are also available for magistrates to view in their own time on the Magistrates Intranet or the Judicial Virtual Library.[129]

The topics of the 2021 conference built on those covered at the February 2020 conference, which included:

- domestic violence through an Aboriginal and Torres Strait Islander lens
- e-safety: addressing abuse facilitated through technology
- experiences of non-fatal strangulation
- impact of exposure to domestic and family violence on developing brain/consequences of early childhood trauma
- intersection of family law and family violence
- perpetrator interventions in Australia
- how the experience of court users impacts on compliance with court orders and future engagements.
- the Domestic and Family Violence Specialist Court and an integrated response.

The last Annual State Conference for all magistrates was held in Brisbane in October 2019. It covered topics on domestic and family violence and incorporated refresher workshops on civil matters, child protection, and evidence.[130]

Professional development opportunities for magistrates relating to domestic and family violence have increased since 2016. In addition to dedicated conferences on the topic and dedicated sessions within other conferences, the Office of the Chief Magistrate organises lunch-time seminars for all Queensland magistrates. Previous topics presented by leading experts, academics, and judges have included:

- strangulation forensics
- domestic and family violence, mental health and well-being and legal engagement
- domestic and family violence and children
- therapeutic jurisprudence and domestic and family violence cases
- domestic and family violence for refugee and immigrant women
- the Domestic and Family Violence Death Review and Advisory Board annual report
- strangulation prevention training
- domestic violence intervention programs
- disability and domestic and family violence.

Domestic and family violence resources are made available to magistrates via the Judicial Virtual Library, including webinars, research reports, discussion papers, and conference materials.

Since 2018, the Chief Magistrate has produced 16 regular newsletters for magistrates containing research, reports, case law, and legislation updates. These are available on the Queensland Courts website.[131]

Magistrates have participated in training delivered by the National Judicial College of Australia and co-funded by the Queensland Government called *Family Violence in the Court,* discussed below.

Judicial officers in Queensland, including magistrates, also use two dedicated domestic and family violence benchbooks:

- *National Domestic and Family Violence Benchbook* (National Benchbook), funded and developed on behalf of the Commonwealth Attorney-General's Department and the Australasian Institute of Judicial Administration, and state and territory governments (discussed below)
- Magistrates Court of Queensland *Domestic and Family Violence Protection Act Benchbook* (Queensland Benchbook), developed in response to recommendation 101 of the *Not Now, Not Ever* report and now in its eighth edition.[132]

The Office of the Chief Magistrate regularly updates the Queensland Benchbook.[133] It outlines the relevant law and suggested procedure for Queensland magistrates dealing with domestic violence matters but is a guide only — magistrates must make their own decisions about the application of law and procedure to individual cases and whether there is jurisdiction to deal with the matter.

District Court

During 2019–20, the District Court judges in Queensland undertook CPD.[134] The judges adopted and confirmed the National Standard[135] soon after its adoption by the Council of Chief Judges in 2007. District Court judges are reminded frequently of the importance of undertaking continuing judicial professional development, and the rate of compliance with the National Standard is high.[136]

In 2019–20 all judges presented papers or participated in seminars and conferences, including continuing legal education programs conducted by BAQ and the QLS.[137] Additionally, 2.5 days were set aside for all judges to come together for professional development.[138]

The court's annual report gives no other information about the training of judges of the District Court of Queensland.

Supreme Court

In July 2019, in what was an Australian first, the Supreme Court of Queensland and the Supreme Court of Western Australia commenced a judicial exchange initiative in which the President of the Court of Appeal from each jurisdiction was sworn in as an Acting Judge of Appeal in the other jurisdiction. Each spent two to three weeks on exchange as an acting judge, sharing information and experiences to improve the delivery of justice in the community.[139] While not related to domestic and family violence or directly to judicial professional development in the traditional sense, the exchanges were intended to 'contribute to a common approach to uniform Australian laws and the CPD of the judiciary in Australia'. [140] Both exchanges were a success.[141] Subsequent planned exchanges, however, were cancelled as a result of the COVID-19 pandemic.[142] At the invitation of the President of the Court of Appeal in New Zealand, the Queensland President of the Court of the Appeal sat on a Hague Convention abduction appeal in New Zealand and participated in the argument (but not deliberations) on 6 March 2020.[143]

During the 2019–20 year, Justice North, responsible for the work of the Supreme Court within its Northern District, including Townsville, attended the National Judicial College of Australia's conference for mid-career judges as well as professional development seminars coordinated by the Townsville District Law Association and the North Queensland Bar Association.[144]

During the same period, the Far Northern Judge, Justice Henry, based in Cairns, attended the National Judicial College of Australia's conference 'Reflections on the Judicial Function'. He worked with the BAQ and the QLS to deliver a professional development session called *'Human Rights Act 2019* (Qld) – What work will it bring us?'[145]

The court's annual report gives no other information about the training of judges of the Supreme Court of Queensland. However, the Taskforce understands that, in most years, many judicial officers, including heads of jurisdiction, take part in CPD activities with other judges and the legal profession at local, state, national, and international levels. The annual report should give details about these activities, and any cost to the public.

Family and domestic violence professional development available to all Queensland judicial offices through the National Judicial College of Australia

The National Judicial College of Australia (NJCA) was established in 2003 as an independent, not-for-profit organisation funded by Commonwealth, state, and territory governments and governed by a Council made up mostly of judicial officers. Its establishment followed findings in an Australian Law Reform Commission report, *Managing Justice: A Review of the Federal Civil Justice System*.[146] The report called for the creation of a body whose purpose was to provide judicial education for the whole Australian judiciary.

The role of the NJCA is to:

- provide national leadership in judicial education
- support the rule of law
- strengthen judicial capacity and independence.[147]

The NJCA offers a range of programs and publications to judicial officers. It has prepared a National Standard in accordance with the *NJCA Attaining Judicial Excellence: A Guide for the NJCA*. It now provides an education program that focuses on the three main roles of judicial officers — as members of the court and the general community; as informed and impartial decision-makers; and as managers of the court process and judicial administrators.[148]

There are no membership fees. Programs are delivered throughout Australia and are open to judicial officers from all Australian courts.

The NJCA has several orientation programs for new magistrates and judges. While the 2019–20 program schedule was disrupted by the COVID-19 pandemic, with some programs postponed to 2021 and others scheduled to proceed as webinars, the magistrates' orientation program was able to proceed. It included the following sessions relevant to domestic and family violence:

- cultural awareness, emerging communities, and interpreters
- childhood trauma and the effect on the brain structure and function
- family and domestic violence.[149]

The NJCA has a history of providing judicial professional development programs that focus on understanding the relationship between the judiciary and society and changes in society. This educative role is centred on the understanding that the independence of judicial officers is strengthened by them being conscious of the social contexts in which their courts operate and of the matters that come before them. The diversity of the community is reflected in the matters that come before the courts. In this role, the NJCA is well placed to provide general education to judicial officers on domestic and family violence, though it may not be Queensland-focused.

The Queensland Government, along with other states and territories, co-funds the development and future delivery of the NJCA's *Family Violence in the Court* training. In 2019–20, the Commonwealth Attorney-General's Department extended the contract with the NJCA for three more years to deliver the training program to federal, state, and territory judicial officers.[150] As a foundation program, the intention is to offer the course once a year to newly appointed magistrates, other interested magistrates, and other newly appointed judicial officers who hear cases where family violence may be involved.

The training consists of a one-day course with an online portal, developed in 2019 and updated in 2020, to support the face-to-face component. Access to the portal is only for those who register for the one-day course. The NJCA is currently reviewing whether access should be extended beyond those registered to gain the participation of those who may not be able to attend in person.

The training consists of sessions on topics such as understanding family violence issues in multiple court settings, overcoming bias in court settings concerning family violence, family violence and the impact of trauma on babies and children, and controlling the courtroom. A recent 2020–21 review of the training resulted in a suite of new topics, including:

- in the court — collusive language and communication style and the way language is used
- a practical session focusing on the experience of the complainant and the respondent in the courtroom
- a virtual reality experience — a practical session simulating a pressured, high-volume court confronting a newly appointed judicial officer
- risk assessment and intersectionality — application and interpretation in a fast-paced courtroom.[151]

In May 2018, 50 Queensland magistrates attended the course, which was delivered in Brisbane and funded by a one-off payment — as mentioned earlier, Queensland Magistrates Court is not funded for the cost of relieving magistrates to attend such courses.

No judges from the Queensland District or Supreme Courts have attended the training,[152] which has only been offered by the NJCA on two occasions since — September 2020 and June 2021 — and not in Queensland.

The September 2020 course (a webinar on family violence) was delivered to Federal Circuit and Family Court judges only and focused on issues related to family law jurisdiction in that court. The June 2021 course was attended only by judicial officers from South Australia and Western Australia.

Given uncertainties related to the response to the COVID-19 pandemic and associated risks, judicial officers from Queensland were unable to attend.[153]

The Taskforce would like to see the *Family Violence in the Court Program* regularly reviewed to incorporate the latest evidence relating to domestic and family violence and coercive control. Judicial officers need to understand how to treat traumatised witnesses and manage their courts in a way that does not allow perpetrators of domestic and family violence to use manipulative tactics resulting in systems abuse of their victims.

Resources available to judicial officers through the Australasian Institute of Judicial Administration

The Australasian Institute of Judicial Administration (AIJA) is a research and educational institute. It is funded by the Council of the Attorneys-General (CAG) and from subscription income from its 700 members, who include judges, magistrates, tribunal members, court administrators, lawyers, academic lawyers, and court librarians.

The AIJA researches judicial administration and develops and conducts educational programs for judicial officers, court administrators, and members of the legal profession on court administration and judicial systems. The AIJA also publishes widely in matters of judicial administration, including bench books and guidelines.

The AIJA runs education programs for judicial officers either annually or biannually and has been involved in developing programs in areas of gender and cultural awareness.[154]

Recommendation 31-2 of the 2010 Australian Law Reform Commission report '*Family Violence – A National Legal Response'* was that the Australian, state, and territory governments should collaborate with relevant stakeholders to develop and maintain a national bench book on family violence, including sexual assault.[155] The report considered that this resource — complemented by high-quality education and training — would promote consistency in the interpretation and application of laws across jurisdictions, and offer guidance and promote best practice among judicial officers and legal professionals.[156] The report noted that the AIJA had previously published useful bench books.[157] The *National Domestic and Family Violence Benchbook* (National Benchbook) was ultimately published by the AIJA, which also financially supports its ongoing revision. As recently as 2019–20, this was undertaken by Professor Heather Douglas and the University of Queensland.[158]

Like the Magistrates Court of Queensland *Domestic and Family Violence Benchbook*, the National Benchbook is a guide only. It is intended to provide:

> a central resource for judicial officers considering legal issues relevant to domestic and family violence related cases that will contribute to harmonising the treatment of these cases across jurisdictions along broad principles and may assist them with decision-making and judgment writing.[159]

The AIJA supported 10 research projects during the 2019–20 financial year. Of relevance to judicial education and wider issues of domestic and family violence are

- Revision of the National Domestic and Family Violence Benchbook
- Perpetrator Interventions in Australia: A National Study of Judicial Views and Sentencing Practice for Domestic Violence Offenders, a rigorous national study of perpetrator interventions leading to the development of judicial guidelines on how such interventions should be considered during sentencing.[160]

The AIJA has also produced various useful guidelines, including the *Guide to Judicial Co*nduct.[161] This publication gives practical guidance to members of the Australian judiciary at all levels.[162]

Chapter Five of the Guide deals with activities out of the courtroom, with 5.13 providing:

> Judicial officers will be better able to maintain the high standards expected of them if they are provided with good quality professional development programs. These will help them maintain and improve their skills, respond to changes in society, maintain their health, and retain their enthusiasm for the administration of justice. Judges should be provided with, and should take part in, appropriate programs of professional development, such as those provided by the National Judicial College of Australia, the Judicial Commission of New South Wales, and the Judicial College of Victoria. Programs and conferences that involve judges from other courts and places, and which provide an opportunity for the wider discussion of common issues, may be particularly valuable. Whilst judges have an individual responsibility to pursue opportunities for professional development, they are entitled to expect that their court will support them by providing reasonable time out of court and appropriate funding.

This reflects recommendation 1 from the 2010 Review of the National Standard for Judicial Professional Development[163] — that courts be invited to adopt a protocol allowing judicial officers to identify up to five days a year on which they could participate in professional development activities.

Judicial professional development in overseas jurisdictions

United States of America

The United States of America has a long history of judge-controlled judicial education, independent of the legislature and executive. The National Judicial College was established in 1963 and by 1967 was providing judges with continuing education. Over the following decade, judicial education continued to develop on a predominantly state-by-state basis,[164] with most states providing training of about five days a year for their judges.[165]

Today, the National Judicial College programs offer over 100 courses with more than 8,000 judges enrolled from all states and territories of the United States.[166] While domestic and family violence forms a component of some courses, none is dedicated entirely to the issue. Programs in judicial education are also offered at Masters and PhD levels. The College's Tribal Judicial Centre was launched in 2002 and serves the specific needs of American Indian and Alaskan Native tribal law judiciaries, with 24 courses currently available in this area.[167] Nearly every US state has established an agency responsible for judicial education. While some states require a certain number of hours' mandatory training per year,[168] participation in many programs is voluntary.[169]

The National Council of Juvenile and Family Court Judges (NCJFCJ) began in 1937 when a group of judges came together to try to improve the effectiveness of the nation's juvenile courts. Over the past eight decades, it has sought to address issues facing juvenile and family justice courts. The NCJFCJ works to advance social change in courts and communities by providing training, technical assistance, and policy development. It offers:

- training programs tailored to judges presiding over cases involving domestic and family violence[170]
- research and library services
- education through the National Judicial Institute on Domestic Violence (NJIDV) — a partnership supported by the US Department of Justice and the Office on Violence Against Women, offering two multi-day programs:
    - Enhancing Judicial Skills in Domestic Violence cases

  - Continuing Judicial Skills in Domestic Violence Cases[171]
- a Model Code on Domestic and Family Violence — a comprehensive code aiming to promote consistency across state lines in how domestic and family violence is handled by the criminal and civil courts. Chapters cover criminal penalties, civil orders, family and children, prevention, and treatment. The code elevates the safety of victims and children above all other 'best interest of the child' factors and includes a rebuttable presumption against awarding sole legal, sole physical, or joint physical custody to a perpetrator.[172]

Some consider that the United States is at the 'forefront in judicial professional development in domestic and family violence'.[173] The NJIDV is a partnership between the US Department of Justice, Office on Violence Against Women, Futures Without Violence, and the National Council of Juvenile and Family Court Judges. This Institute had provided 'highly interactive, skills based domestic violence workshops for judges and judicial officers nationwide since 1999'.[174]

The Enhancing Judicial Skills in Domestic Violence Cases program has been described as:

> based on principles of adult education and the learning styles of judges to create an opportunity for judges to learn from each other and leading experts in the field about the challenging dynamics in domestic violence cases and how to deal effectively with victims, perpetrators and children in the context of legal proceedings.[175]

The format of the program is a workshop with course materials covering several curriculum segments over four days.[176]

United Kingdom

The Judicial College was established on 1 April 2011 (replacing the former Judicial Studies Board). It is a judge-controlled body, independent of the legislature and executive, directly responsible for training judges in England and Wales and for overseeing the training of magistrates by the Courts Committee.[177]

New training requirements were introduced in 2020, requiring all judges, magistrates and coroners to attend a two-day continuation seminar each year.[178] Newly appointed judicial officeholders are also given induction training.[179] Seminars present topics across broader areas of law. A subject called 'Domestic and Family Violence' forms part of a seminar on 'Private Law Continuation' for those working in the family courts.[180]

Canada

In 1971, the Canadian Parliament created the judge-controlled Canadian Judicial Council (CJC), independent of the legislature and executive, to maintain and improve the quality of judicial services in Canada's superior courts.[181] The work of the CJC includes professional development. It has the authority to investigate allegations of misconduct involving judges and, in some instances, recommend that a judge undergo counselling or remedial measures or be removed from office.

The CJC issues professional development and mentoring requirements, and each judge is responsible for their own ongoing professional development. If a judge does not fulfil this obligation, Chief Justices may take appropriate measures. Recently appointed judges are required to complete the training and development programs set out in their professional development plan for the first five years of their appointment, including the New Judges Program and Judging in Your First Five Years. They are also required to complete any Nationally Developed Modules for New Judges and other training as prescribed by their Chief Justice.[182] All judges are required to attend their local court-based program and are recommended to invest the equivalent of 10 days per year in professional development.[183]

While the CJC offers a wide breadth of professional development programs to judges, only one is dedicated to the subject of domestic and family violence — specifically, to the issue of credibility.[184]

New Zealand

New Zealand courts launched a judicial induction program in 1988.[185] In 1991, a more formal and systematic approach to judicial education was endorsed by then-President of New Zealand's Court of Appeal Sir Ivor Richardson, who argued that judges in New Zealand could no longer depend on self-education:

> Formal judicial education programs are, I believe, the most effective means of gaining information and insights; of stimulating awareness of changing social and economic perspectives and values; and generally of enabling us to keep abreast of all those facets of our work in changing times.[186]

The judge-controlled Institute of Judicial Studies was established in 1998 and is independent of the legislature and the executive. It is responsible for developing the judicial training curriculum. It is the professional development arm of the New Zealand judiciary and provides education and resources that support judges in the ongoing development of their judicial careers, promotes judicial excellence, and fosters awareness of developments in the law, including social context and judicial administration.[187]

The Institute offers a course called 'Family Violence', which aims to educate judicial officers about current best practices relating to assisting victim safety and preventing the recurrence of family violence. It includes presentations by various experts about the dynamics of family violence, including its impact on children and the significance of indicators of worsening offending. It includes practical exercises giving participants experience in applying this knowledge to decision-making.[188]

Two decades ago, the Institute developed a cultural awareness program, including training in Maori language, knowledge of culture, and protocol.[189] The program is currently undergoing a name and brand review change to Te Kura Kaiwhakawā (Te Kura).

Te Kura has developed a curriculum of judicial education that guides the development of its courses. This curriculum integrates four key areas of judicial education — the role of the judge, the context of judicial function, skills and judge craft, and renewal and resilience.[190]

The 2021 program included seminars and conferences relevant to domestic and family violence, covering communicating with vulnerable witnesses and defendants, Maori language training for varying competency levels, a visit to a marae (a communal and sacred meeting ground), formal Maori protocols for use inside and outside the courtroom, transformative justice, and family violence in criminal cases.[191]

Findings

Judicial officers need to have enough available time throughout the year to complete the minimum five days of training and professional development recommended by the National Judicial College of Australia.

Planning to allow judicial officers to attend the required professional development must start well in advance and consider court listings and provision for relieving judicial officers where necessary.

Judicial officers should consider undertaking regular professional development, including in relation to domestic and family violence subject matter. The professional development should be undertaken across the Magistrates Court, the District Court, and the Supreme Court.

As discussed in chapter 1.1 of this report, domestic and family violence, including coercive control, can manifest itself in serious physical violence, as well as emotional and financial abuse. Its relevance extends far beyond proceedings under the DFVP Act. Further education and training will enhance the knowledge and capability of all judicial officers in Queensland. The fact that judicial officers have undertaken such professional development and its cost to the public should be transparently and publicly recorded, such as in a court's annual report. This will enhance public confidence in the courts and instil confidence across the community that the judiciary understands contemporary legal and social issues. It does not dilute judicial independence in any way. It enhances it.

Currently, the annual reports of the Magistrates Court, District Court, and Supreme Court of Queensland provide non-specific details of the professional development undertaken by judicial officers. Although the professional development is appropriately funded by the Queensland taxpayer, there are no details about whether individual judicial officers are meeting national minimum standards of training or whether that training is being undertaken in subject matter that is relevant to the work of each judicial officer's jurisdiction.

The Taskforce considers that ordinarily domestic and family violence should be considered relevant subject matter for judicial professional development across all jurisdictions. There is a need for transparency in the reporting of whether judicial officers are undertaking professional development and the type and amount they are undertaking.

Recommendation 48

The Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence progress amendments to the *Magistrates Court Act 1921*, *District Court of Queensland Act 1967*, and *Supreme Court of Queensland Act 1991* to require the annual report of each court to record information about judicial officers completing the minimum five days of training recommended by the National Judicial College of Australia and all other judicial professional development undertaken during the reporting period that was publicly funded.

Implementation

Amendments to progress this legislation should be included with the first part of legislative reform recommended for introduction and passage in 2022 (see chapter 3.8).

Amendments should be made to:

- Section 57A (Annual Report) of the *Magistrates Court Act 1921*
- Section 130A (Annual Report) of the *District Court of Queensland Act 1967*
- Section 19 (Annual Report) of the *Supreme Court of Queensland Act 1991*

The amendments should provide that the annual report must contain information about whether each judicial officer has completed the minimum five days of training recommended by the NJCA and details of all judicial professional development undertaken during the reporting period that was publicly funded.

This provision is consistent with the latest guidance provided by the Queensland Department of the Premier and Cabinet about the purpose of annual reports under the *Financial Accountability Act 2009*:

> Annual reports are a key accountability document and the principal way agencies report on non-financial and financial performance. The Auditor-General notes that 'annual reports support transparency and can drive continuous improvement in performance. Where annual reports incorporate relevant and reliable performance information, they increase trust and confidence in government service delivery (Auditor-General's Report to Parliament No. 4 for 2013–14 p. 12).[192]

An amendment framed in this way seeks only to promote transparency and presents no threat to judicial independence. Ideally, the Taskforce would like to see the Judicial Commission whose establishment it has recommended (recommendation 3) deliver at least some of this judicial professional development.

Human rights considerations

As discussed in relation to recommendation 3, this recommendation promotes human rights under sections 15 and 31 of the Human Rights Act.

This amendment will limit a judicial officer's right to privacy (section 25) to a very small degree.

The Taskforce notes that the scope of the right to privacy is broad. It protects privacy in the sense of personal information, data collection, and correspondence, and extends to an individual's private life more generally. However, the Taskforce considers that the scope of private information belonging to judicial officers that will be disclosed is very narrow (that is, the judicial officer's participation in professional development and its cost) and relates directly to their role as an officer of an arm of government.

Public confidence that judicial officers are keeping up-to-date with matters of relevance to their important work is essential. Further, it involves transparency about the expenditure of public funds. The Taskforce does not suggest any sanction for non-compliance and is satisfied that there is no less restrictive way of providing transparency about judicial professional development and its cost to the public. The Taskforce considers, therefore, that the limitation on this right can be justified in a free and democratic society based on human dignity, equality, and freedom.

Evaluation

Within five years, all judicial officers should have a fundamental understanding of domestic and family violence, and its impacts, and how best to deal with it in the courtroom. It is intended these amendments will improve trust and confidence in judicial officers in Queensland, help keep victims safe, and better hold perpetrators to account.

The impact of these amendments should be assessed five years after commencement, consistent with recommendation 84, which relates to the review of all amendments recommended in chapter 3.9 of this report.

Training for lawyers and professional development for judicial officers about legislative changes introduced as a result of this report's recommendations

Several overseas jurisdictions have legislated to introduce an offence of coercive control. In conjunction with this, they have implemented domestic and family violence training for professionals working within the criminal justice system, including lawyers and judicial officers. These jurisdictions have also developed legal guidance designed to assist in prosecuting this offence and related matters.

Scotland has also introduced training programs for their judicial officers (judges and sheriffs) about domestic abuse. Most cases in Scotland are dealt with by the Sheriff Courts, which hear criminal cases either with a jury or alone.[193] Scottish judicial officers have access to an online training component that focuses on the *Domestic Abuse (Scotland) Act 2018*, as well as a face-to-face domestic abuse course. This interactive learning package was commissioned by the Judicial Institute of Scotland. The course content is delivered by:

> [a] number of external contributors, including representatives from Scottish Women's Aid and the Caledonian System, who are involved in the face-to-face training to assist judges in understanding how the coercive control offence in that jurisdiction can be investigated and prosecuted.[194]

The programs also focus on 'the impact of the criminal behaviour on victims and children.'[195] There will be a report about the progress of the implementation of the legislation three years after its commencement, which was 1 April 2019.[196]

England and Wales also introduced training for prosecutors and judges to support the implementation of a coercive control offence in that jurisdiction. The Crown Prosecution Service (CPS) for England and Wales has published a helpful example of training resources for prosecutors. The CPS developed legal resources on domestic abuse and controlling or coercive behaviour in an intimate or family relationship. The domestic abuse section of the material contains resources, including:

- domestic abuse guidelines for prosecutors
- a guide for victims and witnesses that explains how the decision to prosecute is reached
- a report on the potential use of expert witness testimony in prosecuting domestic violence cases
- further information on the way the CPS deals with cases that involve domestic violence.[197]

The training on controlling or coercive behaviour in an intimate or family relationship includes information and resources aimed at assisting prosecutors in charging and prosecuting the offence.[198]

The Home Office conducted a review of the controlling or coercive behaviour offence in England and Wales and found a need for more and better training for police, prosecutors, and judges.[199] The review noted that 'awareness and understanding of controlling or coercive behaviour had improved', but feedback from individuals across stakeholder groups suggested that there should be a 'focus on when controlling and coercive behaviour legislation should and should not be used, as well as on how to investigate it and evidence it effectively'.[200] In particular, the review heard that the level of training varied among prosecutors and that frontline police officers were not adequately trained to respond to controlling or coercive behaviour.[201] Investigating police reported that officers and prosecutors needed more training to 'better understand the complexities of controlling or coercive behaviour, to help identify such behaviour earlier in the process, and protect victims before further escalation'.[202]

The experience in those overseas jurisdictions that have legislated against coercive control is clearly that this new offence must be supported through education and training for all professionals involved in the criminal justice system, including police, prosecutors, defence lawyers, and professional development for judicial officers. This should occur before the offence comes into effect.

Conclusion

Successfully introducing a coercive control offence in Queensland will be challenging given the gaps the Taskforce has identified in the current understanding of domestic and family violence and the best response to it, both in the general community and across the criminal justice system.

An offence that recognises the patterned nature of coercive control over time is relatively novel. Its introduction will require improved knowledge and skill so that those working within the justice system can properly identify coercive controlling criminal behaviour, investigate it, obtain and interpret relevant evidence, prosecute it, defend those accused, and ultimately deal with those convicted. If done well, victims will be safer, and perpetrators will be held more accountable.

The implementation of the course-of-conduct offence of coercive control will require a significant shift in the Queensland criminal justice system from the usual incident-based approach. To achieve this, the Taskforce is satisfied that an offence should not commence without education and training for police and lawyers, and professional development for judicial officers. The training should cover:

- the nature and complexities of domestic and family violence and coercive control, including the nuanced and varied characteristics of the offending behaviour
- the impact it has on victims
- the law and legal procedures relating to proceedings for the new offence.

The training should also include:

- awareness-raising of the manipulation often used by perpetrators to torment their victims through systems abuse
- how to recognise and manage it in a court setting
- the many complex ethical issues arising for lawyers, whether representing or prosecuting perpetrators or representing victims.

The Taskforce has identified significant problems in the current response to domestic and family violence across the justice system — particularly:

- a lack of recognition of the patterned nature of the behaviour, often leading to misidentification of the person most in need of protection in the relationship
- a lack of understanding of the many, often non-physical, forms of abuse that constitute domestic violence and its dreadful impact on victims.

Irrespective of whether coercive control is criminalised, this education and training are urgently needed.

The Taskforce is also satisfied that Queensland should develop and adopt a trauma-informed framework for lawyers that recognises the trauma often experienced by people, including those damaged by domestic and family violence, and how this may affect their behaviour and ability to engage meaningfully with the justice system. Judicial officers in their continuing professional development programs should consider:

- how best to deal with traumatised witnesses in the courtroom
- the effect of trauma on judicial officers
- keeping up-to-date with the current law and procedure.

Given its prevalence across a broad range of legal practice areas and the continuing rapid growth in research evidence, undergraduate law courses and CPD requirements should include courses covering domestic and family violence.

Resources to help lawyers meet their ethical obligations and responsibilities in these matters should be developed or reviewed. Lawyers should be encouraged to connect with other professionals to discuss and seek support and guidance for navigating these complex but vital ethical issues.

In chapter 2.2, the Taskforce recommended the establishment of a judicial commission for Queensland, building upon the models already implemented in other Australian jurisdictions, most notably New South Wales, which incorporates both judicial professional development and complaints about judicial officers. The establishment of the judicial commission will support the implementation of many of these aspects of the Taskforce's recommendations.

Annexure A: Responses of organisations regarding staff training conducted

Organisation/Body	Continuing professional development	Training related to domestic and family violence law
Community Legal Centres Queensland (represented 34 independent CSCs across Queensland)	Relies on pro bono presenters who are experts in their field. 3 component CPD program delivered over past 5 years: 1. Free online webinar open to CLCs as well as broader community. 150 webinars provided since 2016. 2. Annual 2-day conference for Qld CLCs and Masterclasses, also open to broader community. Covers running a CLC, supporting people and the community and frontline workers. In 2021, a full-day masterclass on working with domestic and family violence perpetrators was provided with financial support from DJAG. 3. Annual 2-day Leadership Forum only open to members of CLCs – targeted at leaders and principal solicitors focused on training and development in management and leadership. Note: CPD is self-assessed in Queensland – as such, training is not required to be accredited with QLS. CLC staff monitor their own CPD points at an individual level.	40 webinars delivered since 2016, broadly covering domestic and family violence, family law, child protection, and women's safety. 8 conference sessions 1 full-day masterclass CLCQ funded by VAQ in 2018 to deliver 12 DFV capacity-building sessions – resources available on the website and informal peer mentoring program established within the CLC sector, which has had over 1300 registrations. Note: CPD is self-assessed in Queensland – as such, training is not required to be accredited with QLS. CLC staff monitor their own CPD points.
Aboriginal and Torres Strait Islander Legal Service (ATSILS)	In general, ATSILS provides forums specific to area of work and position biannually, fortnightly one-hour CPD (recognised under CPD accreditation requirements but since 2015–2016 has been 'self-accredited' since the Law Society and Bar introduced this, requiring legal practitioners to take responsibility for ensuring their CPD course was of 'significant intellectual or practical content' to satisfy the rules – as such, while recognised, CPD is not 'formally accredited') and an online learning hub and encourages staff to undertake postgraduate education (e.g. in new QUT Graduate Certificate in DV Responses) and attend specialist courses.	Their 21–22 CPD schedule includes 3 DFV-specific topics (choking, variations of Domestic Violence Orders, and Domestic Violence Order applications by police) and various other topics that apply to DFV. Staff in Murgon, Townsville, and Wacol with 'Throughcare' officers who provide support for male perpetrators and assist lawyers to gain insight into 'causes and trends for clients and their bail and sentencing outcomes'. Managers are provided with counselling-style couching on DFV. Staff who want more expertise in workplace-specific DFV are provided with online training from accredited provider — four staff are currently trialling training. Staff attendance at professional development activities are recorded in the HR system. Professional development KPIs are set.
Legal Aid Queensland (LAQ)	LAQ hold s CPD -general training, conferences, e-learning, duty lawyer accreditation, youth certification training for youth duty lawyers and on-the-job training. LAQ tracks attendance at training, and managers can access a team's records.	Specialist DFV accreditation training to enable criminal lawyers to appear on civil applications and section 42 applications. On-the-job training, mentoring and supervision to assist staff in identifying domestic and family violence issues. Southport conducts their own specialist training for DFV, including presentations by senior lawyers, judges, and magistrates. Some topics covered include Domestic Violence Order applications, best practice for representing LGBTIQA+, the SARA program and men's behaviour change programs.

		DFV-specific CPD and conference workshops on the following topics: - Domestic and Family Violence in LGBTIQA+ communities - A fine balance — assisting respondents while focusing on safety - Key issues for litigation guardians in family law and domestic violence - No rules of evidence but plenty of processes and procedures - Cultural safety — assisting Aboriginal and Torres Strait Islander clients at court - Practical aspects of the Domestic and Family Violence Court o Session 1: Ensuring safety — everyone's responsibility - New legislation and case update - DFV and immigration - Independent Children Lawyers Training - Using the DFV Best Practice Framework E-learning suite includes the following: - Dispute Resolution Services: Assess the appropriateness of the conference process - Dispute Resolution Services: Domestic and Family Violence (DFV) Risk and Safety - -Introduction to Risk Assessment in Domestic Violence Cases at LAQ - Recognise, Respond, Refer – Domestic and Family Violence - Responding to threats of harm
Office of the Director of Public Prosecutions (ODPP)	Regular in-person and online professional development and information sessions provided to legal staff, victim liaison officers, legal support, and corporate services staff. Sessions recorded and helped in 'ODPP TV' library. Presentations by senior staff and external presenters with expertise (e.g.: Protect All Children Today, WWILD and DVAC). Can be practical to develop capability or to share information regarding legislative or procedural changes. Biannual multi-day in-person conferences for legal staff since 2017. - 'Understanding Sexual Offences training' (USOT) – first developed in 2009 and reviewed and updated 2021. 10 sessions, mandatory for new staff as part of induction. - Professional development session recognised under the CPD accreditation requirements.	The ODPP provided a list of training contained within their library and a list of mandatory training. The library included the following domestic and family violence training: - Understanding and responding to domestic and family violence — 10 May 2018 - Choking by strangulation — 10 March 2016 - Criminal Law (Domestic Violence) Amendment Act 2015 Mandatory Evolve training — Domestic Violence and the Workplace — aims to develop awareness, processes, and skills to deal with situations related to domestic violence that may arise at work.

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Chapter 3.7

Improving court responses

Civil and criminal court proceedings enable victims of coercive control to seek protection and for perpetrators to be held accountable to stop their violence. Courts and court processes are not always safe for victims. They can be traumatic, potentially dangerous places for victims, and they can be used as a tool for systems abuse. This chapter outlines how Queensland's courts can be made safer for victims of coercive control and domestic and family violence.

> 'I then attended the DV court for the trial and it took four days sitting in the witness box being asked about me attending a psychologist for [historical issues]. I was made to cry and was accused of making everything up.' [1]

Coming to a courthouse in Queensland to seek protection from domestic and family violence or as a witness in criminal proceedings can pose a serious risk to a victim's safety. This is especially the case for a victim of coercive control, whose perpetrator may use court proceedings as an opportunity to inflict further abuse. In chapter 1.4, the Taskforce identified shortcomings in the way Queensland courts are dealing with domestic and family violence. High demand, delays, unsafe facilities, insufficient security, and shortages in trained and experienced staff are all factors lessening the safety of Queensland courts for victims of coercive control. These shortcomings will become more pronounced as demand increases.

The Taskforce heard from victims whose experiences in court were negative, intimidating, and even potentially dangerous. Victims may be forced to relive their abuse or wait in close proximity to the perpetrator. Where there are cross applications, victims may have to contest the making of orders against themselves.[2]

Without sufficient safety measures, courts can be dangerous places for victims experiencing systems abuse. As explained in the submission to the Taskforce from No to Violence:

> Perpetrators can use courts and other legal proceedings to remain in contact with, and thereby continue to control, manipulate, and abuse victim-survivors long after their relationship or connection has ended. Victim-survivors face many challenges when going to court, including the retraumatising experience of providing evidence and statements about their experiences of violence.[3]

This chapter outlines the Taskforce's recommendations about the actions that the Queensland Government should take to ensure victims of domestic and family violence, including coercive control, feel safe to seek justice in Queensland's courts.

While many of the issues identified in this chapter are likely to also have an impact on women's experiences in the criminal justice system and will be considered further as part of the Taskforce's second stage of work, these recommendations are made now because they are an essential part of the recommended four-phase implementation plan.

Enhancing the safety of Queensland courts

In Queensland, apart from the judges and their staff, who constitute the judicial arm of government, courts are staffed by employees of the Department of Justice and Attorney-General (DJAG) and are part of the executive arm of government.

The importance of safety at court was considered in a recent ANROWS research report.[4] Although relating to family law court experiences, the research has broader application. It found that safety measures in the court precinct are important safeguards against violence and abuse by perpetrators of family violence.[5]

> Safety at court involves being able to arrive and leave court safely, access to safe rooms, availability of security staff and other assistance, and use of alternative means of giving evidence.[6]

Several women interviewed for the research reported experiencing abuse at court, such as being verbally abused, intimidated, cornered in common spaces, and being followed home after court.[7] These experiences are consistent with those of many women who made submissions to the Taskforce about state courts.

Courts should be places where victims feel safe and supported. All victims seeking protection and justice in Queensland courts should have access to court support services, safe rooms, and remote witness facilities regardless of where they live.

The Taskforce also heard about relatively junior court registry staff doing their best to keep victims safe while waiting for the matter to come before the court. On one occasion, a staff member brought a victim behind the counter into the registry to avoid contact with the perpetrator. This is an enormous responsibility for registry staff to take on in addition to their important administrative roles without additional support and training, and is a potential workplace safety issue.[8]

While the Taskforce acknowledges the significant improvements to Queensland courts and procedures since the release of the *Not Now, Not Ever* report, it is clear that more needs to be done. Enhancing the safety of courts for victims and ensuring that all victims attending the courts have access to appropriate supports and safety measures should be a priority. Investment in the safety of Queensland's courts is required to meet existing demand and prepare for the anticipated increase in demand.

Recommendation 49

The Department of Justice and Attorney-General develop and implement a state-wide plan to improve safety for victims of domestic and family violence including coercive control when attending courts. The plan should be developed in consultation with the relevant head of each jurisdiction, domestic and family violence, Aboriginal and Torres Strait Islander and legal stakeholders, and people with lived experience.

The plan should include:

- capital upgrades to court infrastructure to improve safety for victims, including the incorporation of safe waiting rooms, protected witness rooms, and safe entry and exit routes
- revised listing and scheduling processes for court matters to reduce the number of court appearances for related matters
- engaging security staff in and around the court precinct during times when victims are required to attend courts
- implementing processes that enable victims to appear and participate via video or telephone rather than in person
- developing and implementing electronic lodgement processes
- enhancing court services and safety planning, particularly for people with disability and culturally and linguistically diverse people
- a focus on improving victim safety and participation and fairness for Aboriginal and Torres Strait Islander peoples, particularly in relation to domestic and family violence-related matters as a key objective of work already underway to review the *Justices Act 1886* to establish contemporary, efficient and effective criminal justice procedure for the future.

The program of work to improve the safety of victims while at court will form part of the domestic and family violence strategic investment plan (recommendation 13). It will be informed by an independent and comprehensive audit of victim safety across Queensland courts.

Implementation

Why is a plan required?

The National Domestic and Family Violence Bench Book recognises that there are 'circumstances in the context of domestic and family violence-related judicial proceedings where it may be appropriate or necessary to take steps to ensure the safety and protection of individuals'.[9] The National Bench Book outlines best practice safety measures, including:

- physical and logistical measures such as separate waiting areas and interview rooms, separate exit and entry points, and security escorts for victims
- planning and information measures such as training court staff properly in domestic and family violence, risk assessments and safety planning, and information for parties
- procedural measures such as remote witness options, allowing support persons while giving evidence, and time limits for when proceedings must commence.[10]

The National Bench Book recognises that there are considerable variations in the resources available to courts across Australia. It suggests that where best practice is not possible or practical, court staff 'must prioritise their resources and adapt their practices to address the most critical safety and protection issues'.[11]

DJAG has identified several opportunities to enhance court facilities and services to better meet the needs of victims.[12] However, DJAG has also advised the Taskforce that 'in the absence of dedicated funding, only a fragmented approach to service standard uplift and cultural change has been possible'.[13]

To inform long-term decision-making, a strategic and sustainable plan for improving the safety of courts over time is required. The Taskforce is aware that related planning work is already underway within DJAG.[14] Developing a plan that considers coercive control and the findings and recommendations in this report should form part of the Queensland Government's response to domestic and family violence. The plan should be part of the broader domestic and family violence strategic investment plan (chapter 3.3) and be guided by evidence about where the greatest need for resources lies.

Similar efforts to plan for the future of courts in responding to domestic and family violence have been made in Victoria. In response to the Victorian Royal Commission into Family Violence, the Magistrates' Court of Victoria released a Family Violence Vision Statement in 2017, which laid out that court's vision for an integrated and specialist court system that is accessible and responsive to the needs of those experiencing family violence.[15] The statement includes guiding principles, key priorities, and strategies.

Completing a safety audit of Queensland courts

To inform the plan to improve the safety of Queensland courts, the Taskforce recommends the Queensland Government undertake or commission an independent and comprehensive audit of victim safety across Queensland courts. The audit should identify which courts are most in need of safety upgrades or the establishment of services, taking into consideration existing infrastructure and resources, service access, community needs, and demand.

In chapter 1.4, the Taskforce found that court facilities and court support services are not provided equally to victims across Queensland, particularly those in rural and remote areas. The Taskforce was provided with some information from DJAG, discussed in chapter 1.4, about the current status of safety infrastructure in courts, including safe rooms and remote witness rooms.

Undertaking a more comprehensive safety audit of courts across Queensland would be beneficial in informing future government investment. Specifically, the safety audit should identify whether individual courts:

- have appropriate facilities to separate victims and perpetrators
- are sufficiently staffed to enable case and risk management
- effectively manage the safety of victims
- offer sufficient services to meet demand and respond to need (such as duty lawyer services, court support services)
- have appropriate levels of security (based on past security incidents and victim experiences)
- are safe and accessible for people with disability, First Nations peoples, and people from culturally and linguistically diverse (CALD) backgrounds.

The audit should incorporate evidence from the data reports compiled by the Queensland Government Statistician's Office (QGSO) and referenced in chapter 1.5. Examination of Domestic Violence Order breaches charged by police in relation to respondents named on Domestic Violence Orders in Queensland between 1 July 2008 and 30 June 2018 found that:

- for the quarter (24.3%) of respondents who did have a Domestic Violence Order breach recorded, just under half (48.7%) breached once and the rest breached more than once
- of those respondents who breached a Domestic Violence Order, those who re-breached five or more times (8.2%) accounted for 28.3% of all breaches
- frequent Domestic Violence Order re-breaching (five or more re-breaches) was more common for breachers living in remote and very remote locations in Queensland (the rate of frequent breachers per 100,000 adults was 4.5 and 5.0 times higher in remote and very remote locations respectively than for all of Queensland).[16]

The Taskforce heard in consultations in regional and remote Queensland that victims who make complaints to police or seek justice from the courts are sometimes subjected to retaliatory violence and intimidation in their community.

If the audit relies too heavily on data about the quantitative volume of domestic and family violence order applications or criminal lodgements in courthouses, there is a risk that, based on population levels alone, sufficient resources will not be prioritised for allocation outside of the south-east corner of Queensland. In remote and very remote locations, the numbers of applications and lodgements may be smaller, but the QGSO data and the Taskforce consultations indicate that the need for increased court safety and services in these areas is, in fact, acute.

The audit should also include consideration of:

- information from police and prosecuting authorities about the number of complaints withdrawn in geographical areas because improved confidence in court safety in areas with high withdrawal rates could be of great assistance to victims
- information about where areas of increased population growth, rates of disadvantage, and service needs in Queensland are expected in the future
- whether court processes and procedures including those contained in the *Justices Act 1886* are consistent with victim safety and trauma-informed practice.

The audit should consider the views of judicial officers, court staff, specialist services, and court users, including Aboriginal and Torres Strait Islander peoples regarding what safety improvements should be given priority. Supporting the safety plan with an audit will ensure that resourcing is appropriately allocated and that enhancements are strategic and sustainable. Capital upgrades to court infrastructure

As noted in chapter 1.4, not all courthouses in Queensland are equipped with safe or remote witness rooms or the technology to take evidence remotely. This leaves victims vulnerable to intimidation and jeopardises their safety. The Taskforce has heard of victims, despite being heckled and intimidated by the perpetrator, being made to remain in the courtroom in the presence of the perpetrator until an application has been made for them to give evidence remotely.

Queensland court facilities are aging, and courthouse infrastructure has not been upgraded to meet population growth or demand in some locations.[17] The creation of a coercive control offence is likely to increase the demand for both court services and court facilities such as safe rooms and remote/video-recorded evidence.[18]

Past works to enhance facilities for victims of domestic and family violence have occurred, but only in select Queensland courts. Only three courts have been purpose-built to accommodate a specialist domestic and family violence court.[19] Recent upgrades include court refurbishments to support specialist domestic and family violence courts in Townsville, and Beenleigh, and new courtroom and domestic and family violence safe room facilities at the Richlands courthouse.[20] DJAG has identified facilities in Cairns, Mackay, Rockhampton, Maroochydore, Caboolture, and Toowoomba as priority courthouses requiring additional and improved domestic and family violence facilities to improve victim safety.[21]

It is clear to the Taskforce that, despite the modest progress made, further capital upgrades to court infrastructure are required to improve safety for victims. This includes establishing safe waiting rooms, protected witness rooms, and safe entry and exit routes where these are not available and can be incorporated. Having appropriate safe rooms is considered one of the most important safety features of a court.[22] Where available, they should be known or made apparent to victims as soon as possible before or during their court date.[23]

As noted in chapter 1.4, the full suite of legislative protections intended to be accessible to all special witnesses under the *Evidence Act 1977* is not available in over half of Queensland courthouses. As a pressing human rights issue[24] and one that extends beyond its application to domestic and family violence matters, remote witness facilities should be expanded as a matter of urgency.

The Taskforce acknowledges that capital upgrades to court infrastructure will require significant investment over time. The fiscal impacts of the COVID-19 pandemic will likely impact on the rollout of facility upgrades across courts. However, investment in court infrastructure will assist Queensland's economic recovery from the pandemic by supporting employment in the construction industry. This is consistent with the Queensland Government's objective of 'Building Queensland: Drive investment in the infrastructure that supports our recovery, resilience and future prosperity'.[25]

To prioritise the safety of victims, enable their access to services, and ensure their full participation in court procedures, the Queensland Government should plan for future investment aimed at enhancing the safety of court infrastructure to better meet their needs.

Revised listing and scheduling processes

Planning to improve the safety of Queensland's courts should also consider how to reduce delays and the number of times victims are required or advised to attend court. In chapter 1.4, the Taskforce heard how delays in court proceedings impact victim safety. Although attending court on key dates is important for providing victims with access to services and the ability to have a say in the making of orders, the Taskforce heard that some victims have to attend court on multiple occasions for related matters, potentially exposing them to repeated trauma and systems abuse.

In its 2020–21 annual report, the Domestic and Family Violence Death Review and Advisory Board recommended 'that the Queensland Government explore the development of an approach to triage and case management for domestic and family violence cases before the Magistrates and District Courts to identify those that are complex, high risk, or that involve cross applications for protection orders'.[26] The recommendation went on to say the approach 'should also take into account what is known about systems abuse, and the inherent disadvantage that many victims of domestic and family violence face in their interactions with the justice system'.[27]

The Taskforce supports this recommendation, and further suggests that listing and scheduling processes for court matters should be revised with a focus on improving victim safety — for example, by reducing the number of court appearances for related matters or establishing domestic violence lists to be heard on specific days.

The Taskforce has heard from magistrates and other stakeholders that magistrates need more time allocated to hearing each domestic and family violence-related matter, given their complexity and the need to read applications and affidavits filed in applications for a Domestic Violence Order. A lack of time can mean courts rely on often unrepresented, vulnerable, and traumatised people with little or no previous court experience to provide information during a hearing.

DJAG advised the Taskforce that a domestic and family violence 'Live List' currently operates at three high-volume specialist domestic and family violence courts, which represents the 'first phase towards utilising an automated process for sharing court lists and triaging parties attending domestic violence court proceedings'.[28] A 'Live List App' has been recently developed by Magistrates Court Services to 'improve the coordination of triaging of domestic violence call over days, court flow and the management of court user attendance'.[29] The app was successfully trialled at the Beenleigh Specialist Domestic and Family Violence Court, resulting in priority matters being identified and expedited to reduce the wait times of vulnerable victims.[30]

The Taskforce would welcome an expansion of the 'Live List'. Any expansion should also enable legal practitioners to update the list to assist with the timely progress of matters through court. This mechanism, which is currently a feature of the Live List in Brisbane, benefits aggrieved persons and reduces the time they are required to be at court.

Innovative approaches such as the 'Live List' should continue to be trialled and evaluated, with successful elements rolled out further across the state to improve listing and scheduling processes.

Revising court listing processes should also take into account the needs of Aboriginal and Torres Strait Islander court users. In Townsville, the Taskforce heard that the late release of court listings reduced accessibility for Aboriginal and Torres Strait Islander court users, particularly regarding transport to court.[31] The Taskforce heard that releasing court lists earlier, or having consistent court schedules, would assist services to support First Nations victims and perpetrators in attending court.[32]

The Taskforce has heard that there can be detrimental implications for victims when they are not able to attend proceedings on an application for a Domestic Violence Order. This is more likely to happen when the application is made by the police. This means a victim is unable to have a say in the conditions of a temporary protection order as it is amended or in the making of a final order.

Security in court

Victims required to attend court for domestic and family violence-related civil or criminal proceedings should feel safe and protected from potential abuse during their time in court. As noted in chapter 1.4, inadequate security compromises the safety of victims. Queensland courts have a duty of care to victims entering court precincts, as well as all other court users and court staff.[33] This moral duty is accompanied by practical considerations, given the potential for civil liability if courts are not effectively secured.[34]

DJAG has advised the Taskforce of a project underway to undertake security risk assessments at each courthouse to determine baseline standards for security needs. DJAG advised that funding is required for security enhancements in high-risk areas.[35]

Noting the nature of the tactics used by perpetrators and the intimidation experienced by witnesses discussed in chapter 1.4, Queensland courts should prioritise having security staff stationed in and around the court precincts during those times when domestic and family violence victims are required to attend courts. The resource impacts of this may be reduced through scheduling domestic and family violence matters on specific days, as discussed above.

Court security, like all court staff, require specific training about the nature and impact of domestic and family violence and coercive control to assist them in recognising and responding to risk, and in understanding the distress that court users may be experiencing.[36]

Enhancing security in court also requires careful logistical consideration. For example, increased security screening at court entrances can lead to queues outside courtrooms, potentially leaving victims exposed to abuse from nearby perpetrators.[37]

Research emphasises that the deployment of security staff is just one part of ensuring a safe court experience and that all security measures need to work as a collective whole:

> We now know that 'hard' security is necessary — but not sufficient — to ensure court safety and, indeed, that an over-bearing security presence can be counter-productive to the task. Safety is thus born of a number of factors: informed 'security science', good design, constructive and collaborative processes, respectful practices, and appropriate training.[38]

This research, which involved court safety and security data from three Australian jurisdictions over three years, found that two of the most important measures for addressing and managing risk were:

- improving communication and the sharing of information across security personnel within courts
- security personnel working collaboratively and cooperatively with court staff and the judiciary on 'safety planning'.[39]

These findings should be taken into account when enhancing the security presence for domestic and family violence proceedings to ensure coordinated approaches to victim safety across security staff, court staff, and the judiciary.

Enabling remote appearances and electronic lodgement

A recent ANROWS research report observed:

> Some victims of family violence will not be safe at court despite enacting all of the safety protocols available. For these people, judges can extend further measures of safety, such as allowing them to be absent from the court.[40]

During the COVID-19 pandemic, alternative arrangements for proceedings under the Domestic and Family Violence Protection Act 2012 were made to facilitate the safe continuance of court proceedings and the ongoing protection of people who fear or experience domestic violence.[41] These arrangements enabled remote appearances by video or telephone, as well as electronic filing of protection order applications in certain circumstances.

A Bill is now before Queensland Parliament proposing to embed similar practices in court permanently, including by 'giving Magistrates discretion to conduct all or part of proceedings by [audio-visual] link or audio link'[42] and extending 'the option of electronic filing of documents to private parties in DFV proceedings, with the approval of the Principal Registrar of the court'.[43]

The reforms proposed in the Bill were generally supported by stakeholders and are said to be 'broadly consistent with permanent measures in other states and territories to modernise and streamline access to justice for domestic and family violence victims through expanded use of electronic filing and AV/audio links in line with courts capability.'[44]

During consultation, the Taskforce heard that the ability to appear and lodge applications remotely during the COVID-19 pandemic was appreciated by victims and should continue.[45] The Taskforce, therefore, supports the progression of legislation to support remote appearances and the implementation of processes that enable victims to appear and participate via video or telephone rather than in person.

In Victoria, a trial offering remote hearings so that a victim could give their statement in a different and confidential location from the court commenced in July 2019. In the first three months of the trial, three out of four victims in self-initiated matters took up the option of a remote hearing.[46] This trial indicates that, if given a choice, many victims prefer to appear remotely.

Remote hearings aim to support victims' safety, minimise the potential for trauma and intimidation, and provide victims with a choice about how they participate in the court process.[47] Providing remote appearance options can also reduce much of the fear and anxiety victims feel about attending court. Reducing these anxieties makes it possible for victims to give the best possible evidence of their experience. Remote appearances may also form part of a plan to improve security for victims at court as infrastructure upgrades are made across the state.

The use of technology within Victorian courts has also involved the expansion of the court's online intervention order application service. The Family Violence Intervention Order online application form in the Magistrates' Court of Victoria was rolled out in June 2020.

While Queensland courts currently enable victims to complete a protection order application online, the form then needs to be printed and filed either by post or by attending a court registry in person.[48] This process presents a practical barrier to some victims seeking protection. It may even be a security risk for victims whose perpetrators may find their application or track their travel to court.

Despite the abovementioned Bill to enable electronic filing of applications in limited circumstances, the Taskforce has been advised that its implementation will be limited. This is because of the paper-based nature of Queensland's courts and the limitations of the existing Queensland Wide-Interlinked Courts system (QWIC), which is not suitable as an electronic lodgement portal for online applications.[49] Significant and long overdue technology improvements are required to bring Queensland's courts in line with other jurisdictions and prepare courts for the future.

Although the Taskforce supports enhanced technology for Queensland courts, due consideration must also be given to how victims can be kept safe, be supported to prepare for court, and have access to appropriate referrals while participating remotely. Victims (and perpetrators) who do not physically attend court may not have an opportunity to connect with services available at court. For victims, such services could assist them to best present the history of abuse or seek the right protections.[50] Ensuring that effective services and referrals can be arranged for victims appearing remotely should be a priority.

Enhancing court services and safety planning

The Special Taskforce on Domestic and Family Violence made recommendations aimed at improving safety and services available in Queensland courts, including for the state-wide rollout of duty lawyer services and for court support workers and information/liaison officers to be employed in all magistrates courts.

While the funding of court support and duty lawyer services across several magistrates courts has led to these recommendations being labelled as 'delivered',[51] significant gaps in the availability of court assistance and duty lawyer services across the state remain. If coercive control is criminalised, there will be a distinct need for consistent, available court support services across the state.[52]

As noted in chapter 1.4, court-based services are over-subscribed and limited in the assistance they can provide, particularly in terms of preparing victims and perpetrators for hearings. Increased court services for victims and perpetrators would ensure they can access information and receive referrals to specialised support services.[53]

The Taskforce also heard that duty lawyer services, operating as part of Specialist Domestic and Family Violence Services for both parties, were operating very effectively by enabling parties to better participate in the court process. Magistrates felt that the involvement of duty lawyers reduced the time matters took to progress through court, reduced the complexity of matters, and often enabled negotiation and the cost-effective early resolution of matters.[54]

There is a significant shortage in duty lawyer services despite their cost-effectiveness and being considered one of the most beneficial services for victims in navigating the court process. For example, North Queensland Women's Legal Service told the Taskforce:

> To respond adequately to coercive control, as well as other forms of domestic violence, it is essential that there is funding for more duty lawyer services in regional and remote areas. For instance, in the courts immediately surrounding the Cairns area, there are no domestic violence duty lawyer services in Mossman, Mareeba, Atherton, Innisfail, and Tully. In fact, there are only nine courts outside of Southeast Queensland that have domestic violence duty lawyer services. This is out of approximately 90 courts![55]

Informed by the audit of court safety discussed above, the Taskforce considers the expansion of duty lawyer services to regional and remote areas of need across Queensland would be an appropriate way to support victims to prepare for hearings. It would also help them feel safe and supported in court.

The Taskforce also heard that a lack of available and trained interpreters — often required in languages not frequently spoken in Australia — leads to multiple adjournments of matters and creates injustice for victims from CALD backgrounds.[56] There is also a need for appropriate services for people with disability, such as for those who may rely on their perpetrator as their primary mode of communication. The availability of communication aids and Auslan interpreters for people with hearing impairment was identified by the Taskforce. Improved integration of interpreter and accessibility services in courts should be pursued.

Review of the Justices Act

In response to its QLS Queensland State Election 2020 Call to Parties Statement,[57] the Queensland Law Society received a response from the Deputy Premier Steven Miles on behalf of the Labor Party. The response included a commitment that 'a re-elected Palaszczuk Labor Government will undertake a comprehensive review of the *Justices Act 1886* and the Criminal Practice Rules 1999, which will involve consultation with a wide-range of key stakeholders, the judiciary and legal practitioners'.[58] The Taskforce understands work is underway to progress implementation of this commitment.

The implementation of this commitment provides an important opportunity to improve the criminal justice process to better meet the safety and protection needs of victims, including victims of domestic and family violence. The review should also include, as a primary objective, improving cultural capability within criminal justice procedures to better enable participation and fairness for Aboriginal and Torres Strait Islander peoples in the proceedings that affect them.

Expanding the specialist domestic and family violence courts

The establishment of specialist domestic and family violence courts was a recommendation of the Special Taskforce on Domestic and Family Violence.[59] Chapter 1.4 discussed that Queensland currently has specialist domestic and family violence courts operating in Southport, Beenleigh, Townsville, Mount Isa, and Palm Island in response to the recommendation.

The Southport Specialist Domestic and Family Violence Court was initially established as a trial site. An evaluation report, released in 2017,[60] recommended the court continue with its role as a hub of innovation for initiatives in the processing of domestic and family violence matters through the courts.[61] The report also recommended that 'where possible, specialisation and support should be embedded in existing broader court structures and victim networks so that it is broadly and consistently available across the state'.

To achieve this, the evaluation report recommended an expanded rollout of specialist courts and approaches using a 'tiered approach' involving:

- the adoption of the Southport model, adapted to local circumstances and needs, in high-volume locations
- a civil application list or a sentencing list for cases involving guilty pleas (or both) with wraparound services available at court in other urban/regional locations, adapted to local needs
- the development of a strategy for the use of technology for access to courts and support and legal services for civil applications, and a trial of a specialist circuit court for other matters in rural and remote locations.[62]

DJAG notified the Taskforce of a further external evaluation of the Southport specialist court, which commenced in July 2019 and will conclude in 2021. The objectives of the evaluation are to:

- determine if the Southport specialist court is operating according to the intended specialist court model
- measure progress in implementing the recommendations of the process evaluation in 2016-17
- identify areas for improvement in court responses to domestic and family violence

- identify outcomes for victims, their families, and for perpetrators
- measure social and economic impacts connected with the Southport specialist court.[63]

Specialist domestic and family violence courts appear to be working well in most locations, although the Taskforce noted some issues with resourcing and staffing. In meetings with magistrates, the Taskforce heard that the key benefits of specialist courts are that people have access to services at the court,[64] and they address the complexities of domestic and family violence matters, often involving both civil and criminal matters.[65] Where specialist courts had connections to High Risk Teams, the Taskforce recognised the role and support provided by these teams as particularly beneficial in providing an integrated service response to court users.

The Taskforce heard that, ideally, specialist domestic and family violence courts should be rolled out in as many areas as possible.[66] Chapter 1.4 noted that funding for specialist domestic and family violence courts is not apportioned evenly between court locations. The Taskforce also observed that models operate differently in different locations.

Recommendation 50

The Department of Justice and Attorney-General continue to roll out specialist domestic and family violence courts informed by the outcomes of the evaluation of the Southport Specialist Domestic and Family Violence Court model.

This will include:

- a planned approach to roll out specialist courts prioritising key metropolitan areas, taking into consideration demand, need, service system capability and capacity to inform scheduling and priority
- requiring specialist courts to be constituted by a specialist trained magistrate
- identifying the key elements of the model that contribute to its success so that it can be replicated in regional and remote locations

The model operating in existing courts and rolled out in new locations should meet the needs of Aboriginal and Torres Strait Islander peoples including consideration being given to the role of Elders and Community Justice Groups. The rollout of specialist courts should be included as part of the domestic and family violence service system investment plan.

Specialist domestic and family violence courts have been established in most Australian states and territories.[67] Victoria, for example, has established specialist family violence courts in five locations since 2017–18, in response to recommendation 60 of the Victorian Royal Commission into Family Violence.[68] The 2021–22 Victorian State Budget provided additional funding to establish specialist family violence courts at seven further 'headquarter courts', with capital works funding for two other courts having been previously announced.[69] There is consensus among major studies that all jurisdictions should 'continue to develop' these specialist courts.[70]

As noted in chapter 1.4, the Taskforce heard about many high-volume locations across the state that would significantly benefit from a specialist domestic and family violence court. Expanding the model to operate in additional locations is a signature action for the *Third Action Plan 2019–20 to 2021–22* of the *Domestic and Family Violence Prevention Strategy 2016-2026*. The Taskforce supports the further rollout of specialist domestic and family violence courts, informed by evidence about demand and needs and the results of the ongoing Southport evaluation, as part of the recommended domestic and family violence system strategic investment plan (chapter 3.3).

Implementation

DJAG advised the Taskforce that it is currently exploring options to expand the specialist court program to the high-volume locations of Brisbane, Ipswich, and Cairns. The Taskforce strongly supports this expansion but reiterates that any future expansion should be driven by evidence of the volume of demand, as well as data that shows there are high levels of need for specialist services in remote and regional Queensland.

The Taskforce also supports and reiterates the recommendation of the 2017 evaluation for the 'tiered approach' to specialist domestic and family violence court approaches in Queensland.

Even in locations where specialist courts themselves are unfeasible, successful elements of the specialist courts, such as the availability of court support services, risk-management approaches and access to duty lawyers for victims and perpetrators, should be identified and replicated. This will ensure gradual improvements can be made to practice in the short term across a large number of courts rather than waiting for funding to establish specialist courts before practice changes are progressed. It will also support equitable access to justice across the state.

The Taskforce has identified that having space at court for the children of victims is a much-appreciated part of the specialist domestic and family violence court model. It enables victims to attend court and participate fully in the proceedings without worrying about their children.[71] This feature should be considered as part of the ongoing rollout of specialist court models across the state. The Taskforce will give further consideration to the issue of helping women with children participate in court in its second stage of work.

In chapter 1.4, the Taskforce found that:

- judicial officers and magistrates should receive ongoing training and education about domestic and family violence
- an understanding of domestic and family violence should be considered as one of the selection criteria for the appointment of magistrates and judicial officers.

Chapter 3.6 includes recommendations to improve training for judicial officers. Regarding the further rollout of the specialist domestic and family violence courts, the Taskforce emphasises the importance of the judicial officers presiding over these specialist courts being well trained and sensitive to the nature and impacts of coercive control and domestic and family violence. Ideally, the judicial commission recommended by the Taskforce in chapter 2.2 will coordinate this training.

The state-wide plan to improve safety for victims when attending courts and the continued rollout of specialist domestic and family violence courts should start early in the recommended four-phase implementation plan.

Throughout this report, the Taskforce has discussed concerns about the overrepresentation of First Nations people in the domestic and family violence and criminal justice systems in Queensland. Ensuring specialist domestic and family violence courts are culturally capable and meet the particular needs of Aboriginal and Torres Strait Islander peoples should form a component of a strategy to address this significant issue (chapter 2.2). The Taskforce has heard that there is an opportunity to enable the participation of Elders and Community Justice Groups to achieve this.[72]

The implementation of these recommendations should be guided by the results of the safety audit of Queensland courts discussed above. Planning for improved safety and the expansion of specialist courts and approaches should be data-driven and evidence-based. Basing future investment and expansion decisions on the results of the safety audit will ensure that public funds are distributed fairly and effectively.

Evaluation

The plan to improve the safety of Queensland courts should be supported by regular review and progress updates and the collection of evidence and data to measure and monitor outcomes for victims and perpetrators. These reviews should be informed by the broader monitoring and evaluation framework recommended in chapter 4.1.

Queensland's specialist domestic and family violence court model has now been subject to two evaluations, though limited in scope to the model operating in Southport. Further rollout of the model in other locations should involve ongoing review and evaluation, including to determine whether replicated elements or court models are operating effectively in regional locations. This would identify any necessary modifications or opportunities for practice improvement.

Evaluation of the implementation of these recommendations should include information about the basis for expansion and service delivery decisions. For example, decisions to expand specialist courts to particular locations should be based on evidence of need and demand in those locations.

The Queensland Government should be transparent in its decision-making about why services, capital upgrades, or specialist courts have been made or established in particular locations. In its consultation in Cairns, the Taskforce was asked why one location was chosen over another for a specialist court.[73]

The Taskforce suggests that, at a minimum, DJAG should publish details of the results of the court safety audit and the state-wide plan in its annual report. These details should include an evidence-based explanation for why certain locations have been prioritised for a safety upgrade or chosen as a site for a specialist court. Such transparency would allow the public to evaluate and have confidence in how public money is being expended on specialist courts and the upgrade of court facilities.

Training for court staff

As discussed throughout this report, there is an urgent and ongoing need for strengthened education and training across the justice and service systems, including for court staff,[74] about the nature and impact of domestic and family violence and coercive control. Victims of domestic and family violence provided heartbreaking accounts of the ongoing abuse they experienced while participating in the court system.[75] Submissions and discussions with advocates, academics and the service system have also called for more in-depth training and ongoing education for lawyers.[76] To support efficacy across the justice and service system there must be consistent staff education and training. In chapter 3.3, the Taskforce outlined this need and made recommendations for a whole-of-system education and training and change management framework to be developed and maintained by DJAG. This framework will guide the development and ongoing implementation of consistent training and education for all staff of the justice and service system, including court staff.

Recommendation 51

The Department of Justice and Attorney-General develop and implement ongoing training for court staff about the nature and impacts of domestic and family violence, including coercive control, as well as relevant law and procedure.

The training will incorporate a trauma-informed and intersectional approach consistent with training provided across the domestic and family violence service system.

This training and education will consistently align with the whole-of-system training and education and change management framework developed by the Department of Justice and Attorney-General (recommendation 23).

Implementation

The training should consistently align with the evidence-based and trauma-informed framework to support training and education and change management across all parts of the domestic and family violence and the justice system, which is recommended in chapter 3.3.

While the Taskforce regards it as vital for education and training to be consistent in language and content, it is acknowledged that certain elements will need to be tailored to the roles and responsibilities of the agency and professionals receiving the training. For court staff, it is important that additional elements are included to support them in providing information and assistance to people with complex needs. For example, training on how to engage and support people with disability, and specific legislative provisions relevant to people with disability, such as protected witness provisions, would be beneficial.

As with training for police and the service system, court staff training and education must be evidence-based, trauma-informed, and incorporate intersectional approaches and cultural capability. This includes greater understanding and awareness of the impacts of colonisation and ongoing overrepresentation of Aboriginal and Torres Strait Islander peoples within the justice system.[77] It must also incorporate the voices of people with lived experience, be developed in collaboration with Aboriginal and Torres Strait Islander services, domestic and family violence specialist services, and court experts. This training must consider the different ways domestic violence and coercive control is experienced and understood by First Nations people, people with disability, people from CALD backgrounds, young people, older people and LGBTIQA+ people.

Court staff, including those working within the registry and front counter or frontline roles, must be aware of the dynamics of coercive control and be able to identify the signs of domestic violence. Staff must be trained to recognise, respond, and refer people believed to be at risk of domestic violence to appropriate support services. To ensure staff have the capacity and capability to do this, ongoing training and education will be needed, consistent with recommendations made elsewhere in this report (chapter 3.3).

Evaluation

The overarching training and education and change management framework (chapter 3.3) will include evaluation measures to assess the effectiveness and efficiencies of the process and its outcomes. These measures must also be incorporated into the ongoing evaluation of agency-specific training, including the type of training developed and delivered for court staff. Any evaluation must be consistent with and contribute to the monitoring and evaluation framework set out in chapter 4.1.

As part of DJAG's ongoing obligation to provide a safe place of work for its staff and the other court users who work there (including judicial officers and lawyers appearing in court), the department should review and monitor:

- court staff perceptions of safety
- the outcomes achieved for victims and perpetrators and other people who use the courts.

Human rights considerations

The Queensland Government and Queensland courts have a responsibility and an obligation under the Human Rights Act to protect the safety of all those using and working in the courts.

Victims attending court may have several rights limited if their experience is unsafe, including the right to life (section 16), the right to protection from cruel, inhuman or degrading treatment (section 17), and the right to security of person (section 29).

A victim's right to a fair hearing (section 31) and the right to recognition and equality before the law (section 15) are also limited when their experiences at court prevent them from participating fully in the court process, such as when intimidation prevents them from giving the best possible evidence. When the safety of courts is improved and victims have access to sufficient court-based services, these rights are protected.

The need for extensive and ongoing training and education for court staff is essential to upholding the rights of victims. Without sufficient and ongoing training of court staff, victims will probably continue to report feeling unsafe or unsupported at courts.

As noted in chapter 3.3, Australians living in remote and regional Australia face barriers to realising their human rights because of higher costs for service delivery, remoteness, extremes of weather, and the variability of regional economies.[78] Chapter 2.1 noted that under the Human Rights Act, it is unlawful for a public entity to act or make a decision that is not compatible with human rights or fail to consider relevant human rights when making a decision.[79] When deciding how to expend public resources in Queensland courts, DJAG will need to be mindful of all the human rights noted above. Of particular relevance is whether services (specialist domestic and family violence services or court facilities that provide for safety for victims of all offences) are being delivered in a way that enables Queenslanders living outside the state's south-east corner to enjoy those rights equally in accordance with the right to recognition and equality before the law (section 15).

Conclusion

As noted in chapter 1.4, for victims of domestic and family violence to be safe and perpetrators to be held accountable to stop the violence, courts in Queensland need to be accessible and safe places. If victims are not confident they are safe during the legal process they will not be able to fully participate. This is an access to justice issue. The recommendations in this chapter set out how to implement a state-wide plan to improve safety for victims of domestic and family violence including coercive control when attending court.

It also contains the Taskforce's recommendations to support the evidence-based expansion of the specialist domestic and family violence court model in Queensland. The Taskforce understands that the expansion of the specialist domestic and family violence courts model will require additional resources. There is evidence that these models are delivering better outcomes for victims and perpetrators and these benefits should be provided across the state in a way that is evidence-based and transparent.

Finally, this chapter makes a recommendation for specialist training of court staff. This will provide them with the capability to support the safety of the diverse range of victims of domestic and family violence, including coercive control, who use the courts and improve victims' access to justice. It will also help ensure a safe work environment for all who work in and use Queensland's courts.

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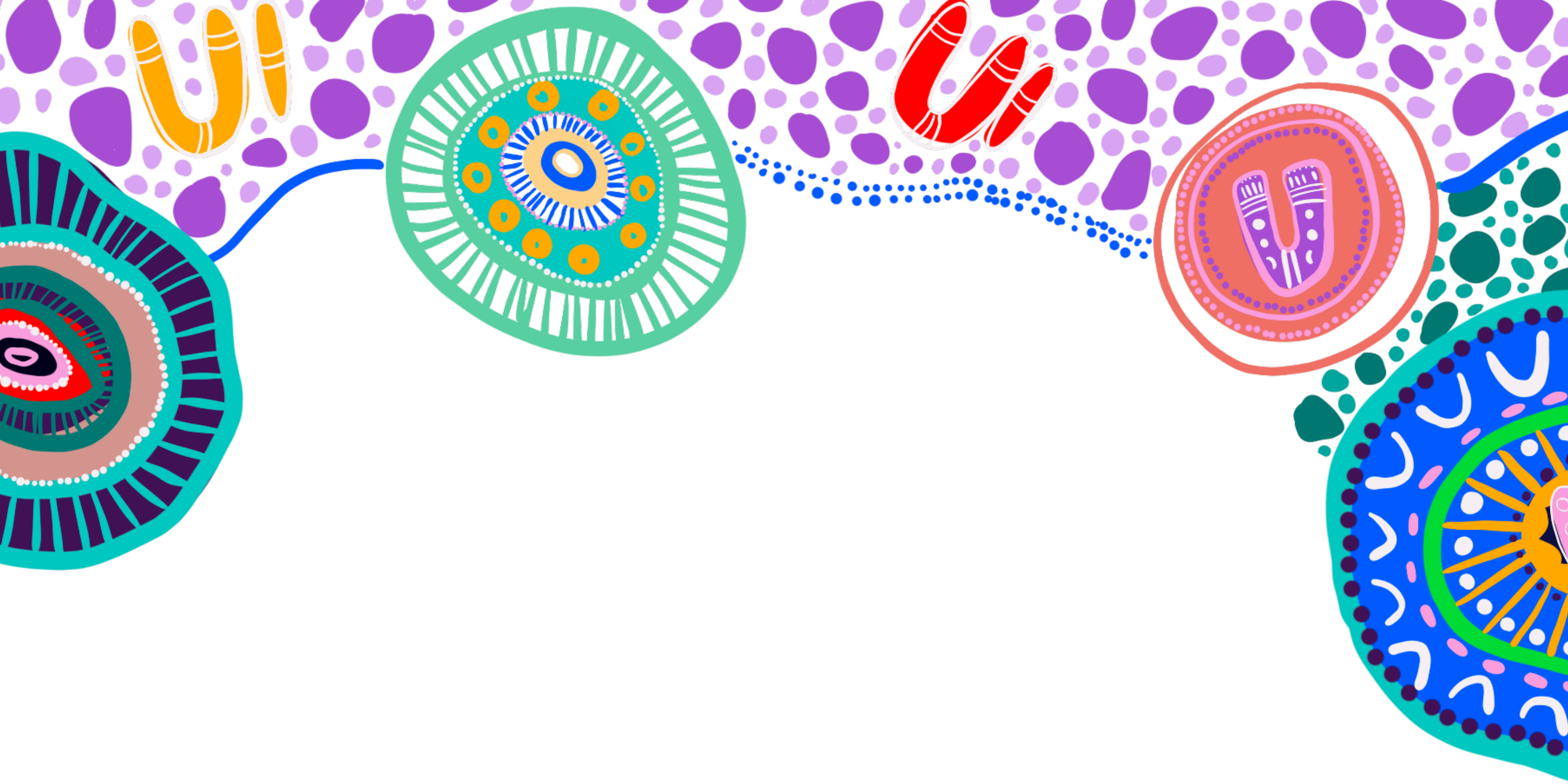

Chapter 3.8

Immediate legislative reforms against coercive control

This chapter considers and recommends legislative amendments that are required to strengthen Queensland's current response to coercive control. It is recommended that the amendments outlined in this chapter be introduced in 2022 and commence, subject to passage, in 2023. These amendments span across Queensland's statute book including the Criminal Code; the *Domestic and Family Violence Protection Act 2012*; *Evidence Act 1977*; and the *Penalties and Sentences Act 1992*. Recommendations are also made for the implementation of guidelines and procedures and further reviews of legislation that should occur during this term of government.

'If the perpetrator does not respect the victim why would they even respect a piece of paper' [1]

Amendments to the Criminal Code

Renaming and modernising the offence of Unlawful Stalking

Stalking legislation was first enacted in California in 1990 and within a decade related legislation was introduced in most common law jurisdictions including Australia.[2] Queensland was the first Australian state to enact a stalking offence.

Chapter 33A of the Criminal Code (the offence of Unlawful stalking under section 359E and related provisions) was created by amendments that came into force on 30 April 1999. Prior to that date, the offence of stalking was a single section (section 359A). The current definition of Unlawful stalking in section 359B of the Criminal Code has not been amended since 30 April 1999 and is as follows:

Unlawful stalking is conduct –

- (a) intentionally directed at a person (the **stalked person**); and
- (b) engaged in on any 1 occasion if the conduct is protracted or on more than 1 occasions: and
- (c) consisting of 1 or more acts of the following, or similar, type –
  - i. following, loitering near, watching or approaching a person;
  - ii. contacting a person in any way, including, for example, by telephone, mail, fax, e-mail or through the use of any technology;
  - iii. loitering near, watching, approaching or entering a place where a person lives, works or visits;
  - iv. leaving offensive material where it will be found by, given to or brought to the attention of, a person;
  - v. giving offensive material to a person, directly or indirectly;
  - vi. an intimidating, harassing or threatening act against a person, whether or not involving violence or a threat of violence;
  - vii. an act of violence, or a threat of violence against, or against property of, anyone, including the defendant; and
- (d) that –
  - i. would cause the stalked person apprehension or fear, reasonably arising in all of the circumstances, or violence to, or against property of, the stalked person or another person; or
  - ii. causes detriment, reasonably arising in all the circumstances, to the stalked person or another person.

While reflective of what offending of this nature involved in the late 1990s, chapter 33A has not been updated to reflect the criminal behaviour of those perpetrating this kind of conduct over two decades later – this includes taking into account what we know about the interaction of stalking and coercive control.

Traditional constructions of stalking by criminological and forensic mental health experts, as well as by members of the community, most readily identify a perpetrator as a stalker when the relevant behaviour occurs *after* an intimate relationship has ended. The implications of this distinction are significant: non-physical abuse (such as putting a victim under surveillance or following the victim) that occurs after a relationship has ended is recognised as stalking (and may thereby constitute a criminal offence), whereas when those same behaviours occur in an ongoing intimate relationship when the parties are cohabitating are more likely to be labelled as family violence and, therefore, not directly criminalised.[3] A key feature of both domestic and family violence and stalking is that the effect of recurrent incidents on the victim is cumulative such that the impact of the totality of the behaviour is almost invariably greater than the sum of each individual incident.[4] It is important that the offence reflects the nature of and damage caused by the behaviour. The potential for a victim to suffer higher levels of trauma as a result of not only being stalked, but being stalked in the context of a domestic relationship, is a strong argument for a new circumstance of aggravation for such offending.

There are significant conceptual overlaps between stalking and domestic and family violence and many jurisdictions expressly link the two concepts. In Scotland, domestic abuse is linked to harassment[5] in legislation drafted to deal with a wide range of behaviours including stalking.[6] In Australia, legislative definitions of domestic and family violence in Queensland,[7] the Northern Territory,[8] Tasmania[9] and the Australian Capital Territory[10] include stalking. In New South Wales, stalking provisions expressly specify that courts have regard to any previous domestic violence by the perpetrator when determining whether their conduct amounts to stalking.[11] This seems to acknowledge that there is at least a link, and perhaps even an overlap, between stalking and domestic and family violence. In fact, when stalking legislation was first introduced in New South Wales it was *limited* to domestic relationships.[12]

The Taskforce is satisfied Queensland's offence should be amended to fully reflect the association between 'stalking' and domestic and family violence and to ensure that traditional attitudes, practices and misconceptions do not impede the offence being utilised where appropriate to ensure that perpetrators are held to account.

Recommendation 52

The Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence immediately progress amendments to the Criminal Code to rename and modernise the offence of Unlawful Stalking in Chapter 33A and to introduce a new circumstance of aggravation when the Unlawful stalking is directed towards a person with whom a perpetrator has a 'relevant relationship' for the purpose of the *Domestic and Family Violence Protection Act 2012* (recommendation 53).

This will include updating the descriptions of conduct that constitute Unlawful stalking to incorporate an evidence-based approach including the use of technology.

A conviction for the offence with the new circumstance of aggravation should attract a higher maximum penalty of 7 years imprisonment.

Amendments will also be progressed to section 359F of the Criminal Code to state that the default period of a restraining order is 5 years unless the court is satisfied that a shorter period will not compromise the safety of the victim or children.

As part of the implementation of this recommendation, training and information should be provided to police, domestic and family violence and legal stakeholders and the community to raise awareness that this offence can be constituted during or after a relationship between the accused person and the victim and about the operation of the new circumstance of aggravation.

Implementation

The Taskforce found in chapter 1.6 that the Queensland Government should take steps to both rename the offence of Unlawful stalking and to modernise and clarify its language to encourage greater use of the existing offence by police and prosecutors.

Renaming Chapter 33A of the Criminal Code

As the Taskforce highlighted in Discussion Paper 1, the word 'stalking' in Chapter 33A of the Criminal Code is not referenced within the elements of the offence itself[13] and could be renamed to better reflect the scope of behaviour that is covered by the offence.

The Taskforce recommends that the offence should be renamed '**Unlawful stalking, intimidation, harassment and abuse**'. It is intended that this amendment will help to shift the mindset that this abusive behaviour is only perpetrated by strangers or after the termination of an intimate relationship and encourage police and prosecutors to take a wider view of 'stalking'.

Amendments to the definition of Unlawful stalking (section 359B)

The Taskforce further recommends that the list of unlawful conduct constituting the offending behaviour outlined in section 359B of the Criminal Code should be broadened to include unauthorised electronic surveillance of the victim by way of such technologies as cameras, spyware on phones and electronic tracking devices. This could draw upon the definition of unauthorised surveillance currently contained within section 8(5) of the DFVP Act. Not only would this work to broaden the behaviours, it would also work to keep the amended offence consistent with the DFVP Act. Section 8(5) of the DFVP Act defines unauthorised surveillance as follows:

- unauthorised surveillance, of a person, means the unreasonable monitoring or tracking of the person's movements, activities or interpersonal associations without the person's consent, including, for example, by using technology.

  Examples of surveillance by using technology—

  - reading a person's SMS messages
  - monitoring a person's email account or internet browser history
  - monitoring a person's account with a social networking internet site
  - using a GPS device to track a person's movements
  - checking the recorded history in a person's GPS device

It is apparent to the Taskforce that the language of section 359B, particularly subsection (c)(ii) which refers to *'contacting a person in any way, including for example, by telephone, mail, fax, email or through the use of any technology'*, is antiquated in that it places emphasis on more outdated methods of communication including fax and mail and does not make specific reference to widely-used modern communication including social media, text messages, instant messaging applications and dating applications. Modern technology and means of contact should be better reflected in the legislation by creating a non-exhaustive definition of ways a person can be contacted via electronic and remote means.

Section 359B(c)(iv) which refers to '*leaving offensive material where it will be found by, given to or brought to the attention of, a person'* should be amended by creating a definition of 'offensive material' in section 359A which makes it clear 'offensive material' can include abusive or derogatory comments about a victim left or placed on social media platforms or websites that may be accessible by the general public or even a particular social circle of people but will still allow for the material to be 'brought to the attention' of the stalked person (for example all the members of a football club in which the victim's mother, father or siblings may be involved). It is important to remember that to amount to unlawful stalking section 359B(d) would require these comments or 'offensive material' to cause the stalked person apprehension or fear, reasonably arising in all the circumstances, of violence to, or against property of, the stalked person or another person or detriment reasonably arising in all the circumstances.

Section 359B(c)(vi) which refers to '*an intimidating, harassing or threatening act against a person, whether or not involving violence or a threat of violence'* should be amended to include the words 'humiliating' and 'abusive' so that it reflects the spectrum of behaviour that victims of coercive control told us in chapter 1.1 caused them to apprehend fear of violence and caused them distress.

Amendments to the punishment of Unlawful stalking (section 359E)

Section 359E relates to the punishment of Unlawful stalking. Unlawful stalking currently carries a maximum penalty of 5 years imprisonment. The maximum penalty increases to 7 years imprisonment where the person uses or threatens violence, possesses a weapon or contravenes an injunction or order made by a court (including a Domestic Violence Order) and 10 years imprisonment where any of the acts constituting the stalking act are done when or because the person being stalked is a law enforcement officer investigating the activities of a criminal organisation. The latter was introduced in 2009 to deter tactics of intimidation and violence towards potential witnesses and law enforcement investigators.[14]

The Taskforce recommends that a circumstance of aggravation should be added to the offence where the unlawful conduct was committed against a person who had a 'relevant relationship' with the perpetrator – namely an intimate, family or informal care relationship within the meaning of section 13 of the DFVP Act. The purpose of this amendment would be to 'call out' the seriousness of perpetrating abuse within such a relationship and to ensure that those who offend in this way are liable to a higher penalty. It is recommended that the circumstance of aggravation carry a maximum penalty of 7 years imprisonment.

Amendments to the power of a court to issue restraining orders for Unlawful stalking (section 359F)

The Taskforce notes that section 359F has not been amended since its introduction in 1999.

The maximum penalty for a contravention of a restraining order made under section 359F subsection (e) of the Criminal Code is currently 1 year imprisonment. This maximum penalty is significantly less than the maximum penalty for a contravention of a Domestic Violence Order which is 3 years imprisonment[15] and 5 years imprisonment if the perpetrator has been convicted of a domestic violence offence in the 5 years prior to the contravention.[16] While both a restraining order and a Domestic Violence Order are made in the exercise of the relevant court's civil rather than criminal jurisdiction,[17] the circumstances leading up to the making of a restraining order under section 359F will have been serious enough to warrant the charging of an indictable criminal offence under the chapter of the Criminal Code that deals with Unlawful stalking (chapter 33A).

While a restraining order can be made whether the perpetrator is found guilty or not guilty or if the matter is discontinued, the need to ensure the safety of the victim should at the very least be equal to circumstances where a Domestic Violence Order has been made – and the necessity to deter the contravention of the restraining order is the same. To correct the discrepancy in penalty for contravention, the penalty for a breach of restraining order should be raised to be consistent with that of a breach of Domestic Violence Order – namely to 3 years imprisonment and 5 years where the perpetrator has been convicted of a domestic violence offence in the 5 years prior to the contravention. Consistent with other offences carrying similar maximum penalties, the former should be a misdemeanour and the latter a crime.

The Taskforce is aware that since 2016 the DFVP Act has provided that unless otherwise stated a protection order shall remain in force for five years.[18] Prior to this amendment the standard protection order period was two years. Stakeholders in consultation with the Special Taskforce on Domestic and Family Violence raised concerns that, often, two years does not provide victims with adequate protection and courts rarely make longer orders[19] and the DFVP Act was amended accordingly. The Criminal Code is silent as to the end date of a restraining order. To ensure protection for victims and their children, the Taskforce recommends that section 359F should be further amended to state that the default period of a restraining order is 5 years unless the court is satisfied that a shorter period will not compromise the safety of the victim or children.

A restraining order against a perpetrator can include any order that a court considers appropriate for the purpose of prohibiting particular conduct, including, for example, prohibiting the perpetrator from contacting a victim or attending their home or place of work for a period of time.[20] The creation of an approved form may assist lawyers and courts to draft and make orders that are properly tailored to the needs of victims in order to keep them and their families safe.

A provision should be included in section 359F which requires the court or the prosecutor to provide a copy of a restraining order made under section 359F to the Commissioner of Police so that the details of the order can be logged by the Queensland Police Service (QPS) to facilitate immediate enforcement of the restraining order. The Taskforce suggests that consideration should be given to what practical measures police may need to take to properly enforce a restraining order and whether the *Police Powers and Responsibilities Act 2000* (the PPRA) provides police with all the powers they require.

To ensure consistency, the renaming of the offence in the Criminal Code and other proposed amendments would need to be accompanied where necessary by updates to references to the offence in other legislation including the Form 205 of the *Criminal Practice Rules 1999*, the disqualifying offence provisions of the Security Providers Act and the *Introduction Agents Act 2001*.

Timing

These amendments should be introduced in 2022 and commenced, subject to passage, in 2023. Broad community consultation should take place on a draft Bill containing these amendments. This consultation should include legal, domestic and family violence, and Aboriginal and Torres Strait Islander stakeholders, and people with lived experience of domestic and family violence.

Actions required between passage of the legislation and commencement of the legislation

Successful implementation of the amendments will need to be supported by training for police, and lawyers and professional development for judicial officers in the period between passage of the amendments and commencement.

The Chief Justice and the Chief Judge should consider updating the *District and Supreme Courts Criminal Directions Benchbook* to reflect the new amendments, and the Chief Magistrate should consider updating the *Domestic and Family Violence Protection Act Benchbook* (DFVP Act Benchbook).

Human rights considerations

Renaming and modernising the offence of Unlawful stalking to make it more applicable to domestic and family violence in today's world protects and promotes a number of human rights under the *Human Rights Act 2019* (the Human Rights Act).

Human rights promoted

The human rights under the Human Rights Act that are potentially engaged and promoted by the proposed amendments to stalking are:

- Right to equality[21]
- Right to life[22]
- Protection from torture and cruel, inhuman or degrading treatment[23]
- Privacy and reputation[24]
- Freedom of movement[25]

- Protection of families and children[26]

Right to equality[27]

As stated in chapter 2.1 it is accepted at international law that domestic and family violence including coercive control is discrimination against women and girls preventing women and girls from the full enjoyment of their other substantive human rights. Therefore, legislation that has a purpose of preventing or prohibiting that discrimination promotes the right to equality.

Right to life[28]

As stated in chapter 2.1, the right to life is particularly relevant for victims of coercive control because of the statistical correlation of this pattern of violence with a high risk of lethality.[29] Stalking is a well-known risk factor for intimate partner homicide and recognised as a significant form of abuse within coercive controlling relationships.[30]

The recommended amendments promote the right to life by building on the existing offence of stalking to capture a wider scope of the patten of abusive behaviour constituting coercive control and in turn offering greater protection to more victims. Such amendments would also enable more victims access to the enduring protection of a restraining order even in cases where the prosecution is subsequently withdrawn or discontinued.

Protection from torture and cruel, inhuman or degrading treatment[31]

As noted in chapter 2.1 the United Nations Special Rapporteur has expressed the view that psychological and emotional violence, including coercive control, amounts to cruel, inhuman or degrading treatment or punishment and to torture where severe suffering is inflicted intentionally and purposefully on a powerless person.[32] The report went on to confirm the positive obligation on states to take effective legislative measures to prevent acts of domestic violence and to ensure due diligence in investigating and prosecuting torture and ill treatment.[33]

Stalking behaviours can often involve behaviour that coercively controls a victim[34] and as such can amount to cruel, inhuman or degrading treatment or even torture.

The proposed amendments promote this right in the same manner that they support the right to life.

Right to privacy and reputation[35]

This right provides that a person has the right not to have their privacy, family, home or correspondence unlawfully or arbitrarily interfered with and not to have their reputation unlawfully attacked. Relevant to stalking and the recommended amendments, the United Nations Human Rights Committee General comment No.16 states that:

- surveillance, whether electronic or otherwise, interceptions of telephonic, telegraphic and other forms of communication, wire-tapping and recording of conversations should be prohibited

- article 17 affords protection to personal honour and reputation and States are under an obligation to provide adequate legislation to that end. Provision must also be made for people to be able to protect themselves against unlawful attacks that do occur and have an effective remedy against those responsible.[36]

The majority of victims who made submissions to the Taskforce described ongoing stalking, monitoring and demands to know where they were and who they were with, sometimes hiring private investigators,[37] using third parties such as family or friends[38] and/or using electronic surveillance in the form of cameras, spyware and tracking devices to monitor or locate victims.[39]

The amendment to the offence of Unlawful stalking recommended above includes the full range of surveillance used by perpetrators and promotes the right to privacy and reputation by ensuring that abuse of this nature is captured within the offence. This will provide an effective remedy to victims against perpetrators and will enable a greater scope of victims to be afforded the protection of a restraining order.

Freedom of movement[40]

A person has the right to move freely within Queensland and to enter and leave it, and has the freedom to choose where to live.

Coercive control is sometimes referred to as a liberty crime[41] because the ongoing pattern of abuse over an extended period of time traps and isolates a victim. The pattern of coercive and controlling behaviour that can amount to stalking can have the impact of making the victim's world smaller as their daily actions and movements are disrupted and controlled by the perpetrator. The victim may be afraid to leave their house, attend certain locations or live where they want to live as they attempt to avoid encountering or aggravating their perpetrator.

The recommended amendments to the offence of Unlawful stalking promote the right of victims to move freely and choose where to live in the same manner as they support the right to life and the right to protection from torture and cruel, inhuman or degrading treatment – namely, by capturing a wider scope of coercive and controlling behaviour, holding perpetrators to account and helping victims to be safe.

Protection of families and children[42]

Every child has the right, without discrimination, to the protection that is needed by the child, and is in the child's best interests, because of being a child.

The United Nations Human Rights Committee in General comment No: 19 stated that:

- states should take appropriate steps to ensure equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution

- spouses should have equal rights and responsibilities in the family. This equality extends to all matters arising from their relationship, such as choice of residence, running of the household, education of the children and administration of assets. Such equality continues to be applicable to arrangements regarding legal separation or dissolution of the marriage.[43]

The protection of children is internationally understood to require States to take all appropriate legislative measures to protect children from all forms of violence including physical or mental violence.[44]

Intimate terrorism, the most dangerous form of domestic and family violence, is fortified by coercive control and inequalities that generally favour men and subjugate women[45]. Relationships characterised by intimate terrorism may involve the complete control of day-to-day activities such as control of finances, friendships, fashion choices, movements, and other life choices[46]. Within these relationships, the perpetrator may demand complete obedience from the victim and children within the relationship[47]. Spouses in these relationships do not have equal rights. Children of these relationships may be exposed to violence.

The recommended amendments to the Unlawful stalking offence promote the protection of families and children by capturing a wider scope of abusive behaviours, holding perpetrators to account for this behaviour and providing victims with safety, including access to restraining orders.

Human rights limited

The human rights under the Human Rights Act that are potentially engaged and limited are:

- Freedom of expression[48] - this protects the right of all persons to hold an opinion without interference and the right of all persons to seek, receive and express information and ideas (including verbal and non-verbal communication)
- Freedom of movement[49] - this right protects an individual's right to liberty of movement within Queensland and their right to live where they wish. It is directed to restrictions on movements which fall short of physical detention coming within the right to liberty in section 29.
- Freedom of association[50] - this right protects an individual right to associate with others. It applies to a right to association for political and industrial purposes as well as for cultural, social and familial purposes.

The recommended amendments limit a person's right to freedom of expression but only in so far as to prevent them from expressing themselves in a way that will cause the other person to fear for the safety of themselves or their property or will cause the other person detriment including psychological distress. All three rights are also arguably limited by recommended amendments to ensure that restraining orders available under chapter 33A of the Criminal Code should be five years in duration unless the court is satisfied that a shorter period will not compromise the safety of the victim or children.

Limitations on rights are justified

Section 13 of the Human Rights Act provides that '[a] human right may be subject under law only to reasonable limits that can be demonstrably justified in a free and democratic society based on human dignity, equality and freedom.'[51] Therefore, a human right can be limited under the act if the limits are reasonable, can be justified, and are also acceptable under international human rights law. The section outlines a number of factors that may be relevant when making this determination:

> *(a) the nature of the human right;*
>
> *(b) the nature of the purpose of the limitation, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom;*
>
> *(c) the relationship between the limitation and its purpose, including whether the limitation helps to achieve the purpose;*
>
> *(d) whether there are any less restrictive and reasonably available ways to achieve the purpose;*
>
> *(e) the importance of the purpose of the limitation;*
>
> *(f) the importance of preserving the human right, taking into account the nature and extent of the limitation on the human right;*
>
> *(g) the balance between the matters mentioned in paragraphs (e) and (f).*[52]

The Taskforce considers that the limitations placed on human rights by the recommended amendments would be able to be reasonably and demonstrably justified on the basis that the legitimate purpose of the limitations is to provide greater protection for victims and their children from coercive and controlling abuse. In recommending these amendments to provide these additional protections to victims and their children the Taskforce is particularly mindful of the human rights of victims and their children to life and their rights not to be subjected to torture and cruel, inhuman or degrading treatment.

The Taskforce considers that any limitations placed on the human rights of perpetrators by the recommended amendments are necessary to achieve the legitimate purpose of these amendments. Taking into account what the Taskforce has heard about the current offence not being applied in a way that provides victims of coercive control and their children with appropriate protection the Taskforce is satisfied that there is no less restrictive way of achieving the legitimate purpose with the same degree of efficacy.

Evaluation

Court and police systems will need to be updated to ensure that detailed data and information is being captured regarding the matters being charged and prosecuted under the amended legislation, including use of the circumstance of aggravation, the resultant sentences when the circumstance of aggravation is charged, the number of times the renamed offence is deemed upon conviction to be domestic violence offence, the number of restraining orders being made, including their conditions, and whether those restraining orders are being contravened.

Agencies should ensure data and information is collected in an extractable form before the commencement of the amendments to inform its review.

The review of the operation of the amendments should commence as soon as possible five years from its commencement to ensure they are operating as intended.

The review of the operation of the amendments should consider the impact and outcomes for victims including in relation to their safety.

Amendments to the *Domestic and Family Violence Protection Act 2012*

Defining domestic violence

The current definition of 'domestic violence' in section 8 of the DFVP Act sends a somewhat confusing message about the nature of coercive control and domestic violence

As outlined in chapter 1.5, while the *Domestic and Family Violence Protection Act 2012* (DFVP Act) defines domestic violence to include coercive and controlling behaviours, it does not define what these are.[53] While the preamble to the DFVP Act sets the right tone by stating that domestic violence "is often an overt or subtle expression of a power imbalance, resulting in one person living in fear of another, and usually involves an ongoing pattern of abuse over a period of time",[54] in section 8 the Act lays out a list of purported domestic violence tactics, including coercive and controlling behaviours:

> *"**Domestic violence**" means behaviour by a person (the "**first person**") towards another person (the "**second person**") with whom the first person is in a relevant relationship that—*
>
> *(a) is physically or sexually abusive; or*
>
> *(b) is emotionally or psychologically abusive; or*
>
> *(c) is economically abusive; or*
>
> *(d) is threatening; or*
>
> *(e) is coercive; or*
>
> *(f) in any other way controls or dominates the second person and causes the second person to fear for the second person's safety or wellbeing or that of someone else.*
>
> *(2) Without limiting subsection (1), domestic violence includes the following behaviour—*
>
> *(a) causing personal injury to a person or threatening to do so;*

(b) coercing a person to engage in sexual activity or attempting to do so;

(c) damaging a person's property or threatening to do so;

(d) depriving a person of the person's liberty or threatening to do so;

(e) threatening a person with the death or injury of the person, a child of the person, or someone else;

(f) threatening to commit suicide or self-harm so as to torment, intimidate or frighten the person to whom the behaviour is directed;

(g) causing or threatening to cause the death of, or injury to, an animal, whether or not the animal belongs to the person to whom the behaviour is directed, so as to control, dominate or coerce the person;

(h) unauthorised surveillance of a person;

(i) unlawfully stalking a person.

This may confuse some readers in that it suggests these behaviours are mutually exclusive and does not acknowledge that many of these behaviours are committed in the context of coercive control, and that coercive control is more than just one or two points in a list of behaviours. The current definition may contribute to misidentification of domestic and family violence by not properly reflecting coercive control as being the key component of domestic and family violence beyond what is stated in the preamble.[55]

Recommendation 53

The Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence immediately progress amendments to the definition of 'domestic violence' in section 8 of *Domestic and Family Violence Protection Act 2012* to make it clear that domestic violence includes coercive control and can be a series or combination of acts, omissions or circumstances over time, in the context of the relationship as a whole.

The amendments to the *Domestic and Family Violence Protection Act 2012* will also make it clear that the harm to the victim can be cumulative.

Implementation

The Taskforce found in chapter 1.6 that the Queensland Government should amend the DFVPA Act to make it clear that domestic violence includes a series of acts, omissions or circumstances taking place in a relationship over time that may result in cumulative harm to the victim. The Taskforce recommends that this be done by making amendments to sections 8, 11 and 12 of the DFVPA.

Amendments to the definition of domestic violence (sections 8, 11 and 12)

The definition should be expanded so that rather than just referring to "behaviour" it expressly includes a reference to a 'pattern of behaviour'. This would better reflect what we know about the ongoing nature of coercive control and the vast range of behaviours that it can encompass.

While the Taskforce does not seek to be prescriptive about the drafting of the provision, it could include amending section 8(1) to state that "domestic violence means behaviour *or a pattern of behaviour* by a person (the "first person") towards another person (the "second person") with whom the first person is in a relevant relationship". Similar wording should be included in section 11 and 12 to reflect that emotional or psychological abuse and economic abuse can be a pattern of behaviour.

Further, an additional clause could be inserted in section 8 to make it clear that the behaviour should be considered in the context of the relationship as a whole.

Chapter 1.6 outlines the strong support received from legal stakeholders that the definition should include a single list of clear non-exhaustive examples of behaviour falling within the definition. The Taskforce notes that the current legislation contains a non-exhaustive list of examples of behaviours amounting to domestic violence in sub-section 8(2). Section 11 and 12 respectively then further define 'emotional or psychological abuse'[56] and 'economic abuse'[57].

The Taskforce recommends that the current non-exhaustive list of domestic violence behaviours in section 8(2) be expanded to include an additional clause, making it clear domestic violence includes individual acts when considered cumulatively that are coercive, threatening or controlling

Several stakeholders[58] made favourable reference to section 4AB(2) of the *Family Law Act 1975* (Cth) which defines *family violence* as *'violence, threatening or other behaviour by a person that coerces or controls a member of the person's family (the family member), or causes the family member to be fearful'*[59] and provides a single non-exhaustive list of examples that *may constitute family violence:*

- *an assault; or*
- *a sexual assault or other sexually abusive behaviour; or*
- *stalking; or*
- *repeated derogatory taunts; or*
- *intentionally damaging or destroying property; or*
- *intentionally causing death or injury to an animal; or*
- *unreasonably denying the family member the financial autonomy that he or she would otherwise have had; or*
- *unreasonably withholding financial support needed to meet the reasonable living expenses of the family member, or his or her child, at a time when the family member is entirely or predominantly dependent on the person for financial support; or*
- *preventing the family member from making or keeping connections with his or her family, friends or culture; or*
- *unlawfully depriving the family member, or any member of the family member's family, of his or her liberty.*[60]

The current list of behaviours in chapter 8(2) of the DFVP Act does not use language that could be interpreted to require the elements of a criminal offence to be proved albeit at the lower standard of the balance of probabilities. It is not intended that the behaviour that constitutes domestic violence necessarily also constitute a criminal offence. Care should be taken to avoid describing behaviour in a way that inadvertently increases the threshold for protection to be put in place for a victim.

The North Queensland Women's Legal Service suggested that a list of specific examples include threats/removal or children, use of visa status and threats to use systems abuse.[61] However, including threats or the removal of children could have the unintended consequence of being used against a victim trying to act protectively.[62] Including examples in legislation can be problematic because there will always be examples that are not included in the list.

Timing

These amendments should be introduced in 2022 and commenced, subject to passage, in 2023. Broad community consultation should take place on a draft Bill containing these amendments. This consultation should include legal, domestic and family violence, and Aboriginal and Torres Strait Islander stakeholders, and people with lived experience of domestic and family violence.

Actions required between passage of the legislation and commencement of the legislation

Successful implementation of the amendments will need to be supported by training for police and lawyers and professional development for judicial officers in the period between passage and commencement. The QPS may also need to amend their Operation Procedure Manual to reflect the change in definition. The District and Supreme Courts Criminal Directions Bench book may also need to be updated to reflect the new amendments, as may the DFVP Act Benchbook.

Human rights considerations

Human rights promoted

Human rights that are potentially engaged and promoted are the right to recognition and equality before the law (section 15), the right to life (section 16), the protection from torture and cruel, inhumane or degrading treatment (section 17) and the protection of families and children (section 26). These rights have all been discussed above.

Human rights limited

There may be an argument that the amendment of the definition of domestic violence limits rights in criminal proceedings (section 32) and the right to liberty and security (section 29). These limitations arise from anticipated concerns that the amendments may capture a greater number of perpetrators who may be subject to a Domestic Violence Order for expressing themselves, for example by insulting a victim online. Should these perpetrators go on to breach the order they may be arrested, prosecuted and/or convicted under the DFVP Act and may be placed in custody, refused bail and perhaps ultimately placed on supervision orders.

Limitations on rights are justified

The Taskforce considers that these limitations would be able to be reasonably and demonstrably justified on the basis that the legitimate purposes of the limitations is to:

- provide greater protection for victims and their children from coercive and controlling abuse particularly victims of non-physical abuse; and
- reduce the risk of victims of coercive control being misidentified as a perpetrator; and
- promote greater awareness about coercive control amongst lawyers and judicial officers.

The Taskforce considers that limitations placed on the human rights of perpetrators by the amendments recommended are necessary to achieve the legitimate purpose of these amendments. Taking into account what the Taskforce has heard about the current provisions not providing clear protection for victims of coercive control and their children the Taskforce is satisfied that there is no less restrictive way of achieving the legitimate purpose with the same degree of efficacy.

Evaluation

It is intended that the recommended amendments will help police, lawyers and judicial officers to gain a deeper understanding of the true nature of coercive control in the context of the whole relationship and would make it clear that domestic violence can include a series or combination of acts, omissions or circumstances over time. This would help victims in the shorter term to be safe and would also help to pave the way for the successful implementation of a stand-alone coercive control offence.

Agencies should ensure data and information is collected in an extractable form before the commencement of the amendments to inform its review.

The review of the operation of the amendments should commence as soon as possible five years from its commencement to ensure they are operating as intended.

The review of the operation of the amendments should consider the impact and outcomes for victims including in relation to their safety.

Protections for victims in criminal proceedings

As outlined in chapter 1.6, while section 151 of the DFVP Act empowers a court to prevent a perpetrator from cross-examining a protected person in a 'proceeding', including a victim, except through a lawyer, there is a lack of clarity as to whether the prosecution of an offence under the DFVP Act (including a breach of a Domestic Violence Order)[63] is a 'proceeding' for the purposes of the Act. [64] This means that there is currently scope for a perpetrator to at least attempt to use breach proceedings as a form of systems abuse[65] to terrorise their victim.

While there is District Court authority to suggest that proceedings for a breach of Domestic Violence Order are "proceedings under [the] Act"[66] the Taskforce has heard that there is some conjecture in relation to this issue and about whether the provisions of the *Evidence Act 1977*, including provisions about the cross-examination of protected witnesses,[67] apply. This supports stories that the Taskforce has heard from victim survivors who told us that their perpetrator had been allowed to cross-examine them and that this should not be allowed to occur.[68]

Section 21M of the Evidence Act contains special provisions for 'protected witnesses' which include alleged victims of 'prescribed offences' such as grievous bodily harm, wounding and threats and alleged victims of 'prescribed special offences' such as assault occasioning bodily harm, common assault, choking, stalking and burglary. These are witnesses who the court considers would be likely to be disadvantaged or suffer severe emotional trauma unless treated as protected witnesses.[69] Section 21N prohibits cross-examination of protected witnesses by a person charged and section 21(O) provides for a process whereby a free legal representative is appointed from LAQ to conduct cross-examination on behalf of a person charged where they are not legally represented. While these provisions offer protection to victims of prescribed special offences in the higher courts, section 21L stipulates that Division 6 only applies to criminal proceedings ***excluding summary proceedings*** under the *Justices Act 1886,* that means effectively the protection does not apply for the matters that proceed in the Magistrates Court. The result of this is that the protections of Division 6 do not apply to victims of breaches of Domestic Violence Orders under the DFVP Act. Further, there are a number of serious indictable offences that may be committed in the context of domestic violence that largely proceed summarily in the Magistrates Court – for example distributing intimate images,[70] observations in breach of privacy,[71] dangerous operation of a motor vehicle[72] and any offences under the DFVP Act.[73] Victims of these offences are therefore not afforded the protections of Division 6 and self-represented alleged perpetrators are not provided legal aid representation for the purpose of their cross-examination of victims.

By the time that a respondent has been charged with a breach of a Domestic Violence Order, a criminal offence has allegedly been committed and the need to protect the aggrieved is at its highest. It is necessary to provide protection for the victim from the adverse impacts of being directly cross-examined by a perpetrator during the breach proceedings if it is likely to cause them to suffer emotional harm, distress, or be so intimidated as to be disadvantaged as a witness.

Recommendation 54

The Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence immediately progress amendments to section 151 (Restriction on cross-examination of a Person) of the *Domestic and Family Violence Protection Act 2012* to clarify that it applies to criminal proceedings for offences under the *Domestic and Family Violence Protection Act 2012* including offences relating to the contravention of a Domestic Violence Order.

To remove any doubt, it should also be made clear that, given proceedings for an offence under the *Domestic and Family Violence Protection Act 2012* are criminal proceedings, the *Evidence Act 1977* also applies.

Recommendation 55

The Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence immediately progress amendments to Part 2, Division 6 of the *Evidence Act 1977* so that protections in that Division on the cross-examination of protected witnesses apply to proceedings on any offence that is a domestic violence related offence, including offences in the *Domestic and Family Violence Protection Act 2012*.

Adequate resources will be provided to Legal Aid Queensland to support the implementation of this recommendation.

Implementation

It is critical that the legislation be amended to remove any ambiguity and make it clear that:

- an alleged perpetrator will not be permitted to inappropriately personally cross-examine a victim of domestic violence in any jurisdiction
- all proceedings for offences under the DFVP Act are to be treated as criminal proceedings for which the protections of the Evidence Act should also apply, including those in Part 2, Division 6 governing the cross-examination of protected witnesses

Amendments to offences under the DFVP Act (Part 7)

Part 7 of the DFVP Act relates to offences committed under the DFVP Act, including breaches of Domestic Violence Orders.[74] Section 181 deals with the prosecution of offences and applies to all offences against the DFVP Act.[75] It is recommended that a new section be inserted into Part 7 of the DFVP Act making it clear that the prosecution of offences under Part 7 of the DFVP Act are 'proceedings' to which the protections of section 151 of the DFVP Act apply. Recommendation 54 will help to keep victims safe by ensuring that cross-examination by an alleged perpetrator is not allowed in any proceedings, including breaches of Domestic Violence Orders where it is likely to cause the aggrieved or a person close to them to suffer emotional harm, distress or intimidation that will disadvantage them in telling their story before the court.

Amendments to the Evidence Act

The intention of the Taskforce is that the court should be empowered to ensure that alleged victims of domestic violence and other protected persons in these matters are not subjected to cross-examination by an alleged perpetrator regardless of which jurisdiction their matter proceeds in.

Section 21L should be amended so that Part 2, Division 6 of the Evidence Act which provides protection for the cross-examination of protected witnesses will apply to prescribed offences in section 21M regardless of whether they are a witness in a matter that proceeds summarily in the Magistrates Court or on indictment in the District or Supreme Courts. It is further recommended that the 'prescribed offences' and 'prescribed special offences' contained within section 21M be widened to include any offence that if it was proven, would also be a domestic violence offence, including any offences in part 7 the DFVP Act.

The Department of Justice and Attorney-General (DJAG) noted in their submission to the Taskforce[76] that any extension of protected witness provisions to summary proceedings is likely to have impacts for courts which would need to be considered, including the potential for delay in hearings and finalisation of matters. This issue could be mitigated with an amendment to Chapter 11 of the *Criminal Practice Rules 1999* (Criminal Practice Rules) requiring that a self-represented defendant give a certain number of days' notice to the court prior to the hearing should they intend to cross examine the alleged victim. The exact period of notice required should be determined during drafting after consultation with Legal Aid Queensland (LAQ), QPS and the Chief Magistrate. The period of notice should be long enough to advise and prepare the victim and should give the court time to contact LAQ and arrange for a lawyer to be provided to the defendant, take the defendant's instructions and undertake the cross-examination. While the Taskforce acknowledges that the provision of free legal assistance for self-represented defendants for the cross-examination of protected persons will come at a significant cost to government, the great potential for harm to victims exposed to cross-examination by perpetrators is such that the Taskforce believe this cost is warranted.

The protection of victims from cross-examination by self-represented perpetrators should not depend on the jurisdiction in which a hearing proceeds. The Taskforce suggests that the Queensland Government consider providing funding to LAQ for lawyers to conduct cross-examination of this kind, at the same time acknowledging that any lawyer appointed to conduct cross-examination will require adequate time to review the file and prepare. The Taskforce anticipates that there may also be additional administrative costs for LAQ in administering an expanded scheme.

Timing

These amendments should be introduced in 2022 and commenced, subject to passage, in 2023. Broad community consultation should take place on a draft Bill containing these amendments. This consultation should include legal, domestic and family violence, and Aboriginal and Torres Strait Islander stakeholders, and people with lived experience of domestic and family violence.

Actions required between passage of the legislation and commencement of the legislation

The Taskforce further recommends that the Chief Magistrate consider updating the DFVP Act Benchbook to reflect these amendments and to ensure that magistrates are aware of the need to consider this issue of cross-examination when listing self-represented matters for hearing in order to ensure that a Legal Aid lawyer is appointed in a timely manner to avoid delay.

The Chief Magistrate should also consider updating the DFVP Act Benchbook to make clear the process by which self-represented hearings are to be listed and conducted. This will help to ensure that these matters run smoothly and without delay and that victims receive the protection they need to be safe to come to court and tell their story.

For the implementation of these amendments to be successful lawyers will require training about the amendments and their practical implications for practice. Professional development should also be considered for judicial officers. This training should be rolled out in the period between passage of the amendments and their commencement.

Consideration will need to be given to extra funding for (LAQ) and the courts, with estimates presented to the government and funding approved in advance.

Human rights considerations

Human rights promoted

Restricting the ability of perpetrators to cross-examine victims and continue to perpetuate abuse promotes personal rights engaged when preventing domestic and family violence including the right to recognition and equality before the law (section 15), the right to life (section 16), the protection from torture and cruel, inhumane or degrading treatment (section 17), the right to freedom of expression (section 21) and the protection of families and children (section 26). The right to a fair hearing (section 31) and rights in criminal proceedings (section 32) are also promoted. These are based on Article 14 of the ICCPR. The Human Rights Committee comments that:

> The availability or absence of legal assistance often determines whether or not a person can access the relevant proceedings or participate in them in a meaningful way. While article 14 explicitly addresses the guarantee of legal assistance in criminal proceedings in paragraph 3 (d), States are encouraged to provide free legal aid in other cases, for individuals who do not have sufficient means to pay for it. In some cases, they may even be obliged to do so.[77]

The right to recognition and equality before the law is a stand-alone right that also permeates all human rights. Protected by both section 15 of the Human Rights Act and Article 2 of the Universal Declaration of Human Rights, it includes both the right to recognition as a person before the law and the right to enjoy human rights without discrimination. The right to recognition as a person before the law refers to the right to universal recognition of legal personality of the human being. A person who the law does not recognise has no way of enforcing the recognition of his or her other rights, including 'to commence, defend and participate in legal proceedings and to be treated as a legal person in all other aspects of the operation and administration of the law'.[78]

The prospect of being cross-examined by a perpetrator may be so frightening and intimidating for a victim that they may not be able to give their best evidence or may feel they are unable to give evidence altogether. The general right to recognition and equality is protected and promoted by the proposed amendment because it prevents perpetrators from being able to cross-examine victims in these circumstances and helps to ensure that victims feel safe and supported to participate fully in legal proceedings.

Human rights limited

The proposed amendments may risk limiting rights in criminal proceedings, particularly to examine or have examined witnesses against the person (section 32(2)(g)). This right is considered an integral part of an accused person's right to a fair trial. Australian courts have acknowledged that the right to a fair trial extends beyond the rights of the accused to include the interests of the community and the protection of witnesses and have developed an approach which is consistent with the conceptualisation of the right to a fair trial in European and United Kingdom human rights jurisprudence known as a '*triangulation of interests*'.[79] Lord Steyn in Attorney General's Reference (No 3 of 1999)[80] described the 'triangulation of interests' approach as follows:

> There must be fairness to all sides. In a criminal case this requires the court to consider a triangulation of interests. It involves taking into account the position of the accused, the victim and his or her family, and the public.

Limitations on rights are justified

The Taskforce considers that this potential limitation would be able to be reasonably and demonstrably justified on the basis that the purpose of the limitation is to protect victims from suffering further abuse at the hand of the perpetrator who has been changed with offending against them. On balance, any risk is significantly mitigated by the fact that the amendments entitle an accused perpetrator to be given legal representation to carry out the cross examination of the victim. It is noted that the proposed amendments promote recognition and equality before the law, not only for victims, but alleged perpetrators too, who would receive the benefit of legal representation in circumstances where they currently may not.

Evaluation

The proposed amendments are intended to address issues raised by DJAG and what survivors have told us about the experience of being cross-examined by their perpetrators.[81] The Taskforce's intention is that the recommended amendments will help to keep victims safe from further abuse, and also better ensure that accused perpetrators have a fair hearing. Under the current legislation section 151 of the DFVP Act leaves self-represented accused perpetrators restricted from cross-examining protected witnesses with only two options – either to get themselves a lawyer, which they may not be able to afford, or forgo cross-examination altogether. The appointment of an LAQ funded lawyer under the proposed amendments would be a better, fairer and safer outcome for both parties.

To assist in the review of the operation of the amendment to ensure it is operating as intended before the amendments commence the relevant agencies should ensure data and information can be captured about self-represented litigants and hearings, including when notice has been given of intention to cross-examine an alleged victim and whether a legal aid lawyer has been appointed. The collection of data will be integral to assessing and measuring success of this measure and making provision for required additional funding for LAQ.

Agencies should ensure data and information is collected in an extractable form before the commencement of the amendments to inform its review.

The review of the operation of the amendments should commence as soon as possible five years from its commencement to ensure they are operating as intended.

The review of the operation of the amendments should consider the impact and outcomes for victims including in relation to their safety.

Cross applications and cross orders

The Taskforce has heard repeatedly from victims and those who support them that cross applications and cross orders are being used by perpetrators as a means of continuing to control, intimidate and terrify victims and are often not reflective of the person most in need of protection. In their most recent annual report the DFVDRAB recommended the need for the Queensland Government to implement policy and practice reforms to create guidance for courts in identifying the person most in need of protection.[82]

As discussed in chapter 1.6, the objective of the cross application amendments in the *Domestic and Family Violence Protection and Another Act Amendment Act 2015* in response to recommendation 99 of the *Not Now, Not Ever* Report was to 'ensure that, where there are conflicting allegations of domestic or family violence in civil applications for protection orders, courts identify and protect the person must in need of protection'.[83]

The Taskforce has heard that despite the objective of the amendments to resolve conflicting allegations of domestic and family violence and identify the person most in need of protection, the legislation is not operating as intended and this conflict resolution is often not occurring. As a result, Domestic Violence Orders are being made against victims of domestic and family violence. It is apparent to the Taskforce that the DFVP Act does not reflect the intention of the Honourable Shannon Fentiman MP, then the Minister for Communities, Women and Youth, Minister for Child Safety and Minister for Multicultural Affairs,[84] namely that courts determining cross applications should come to a single finding as to who is the person most in need of protection.

Recommendation 56

The Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence immediately progress amendments to the *Domestic and Family Violence Protection Act 2012* to provide that:

- applications and cross applications for a Domestic Violence Order must be considered together
- remove the option for the court to hear the applications separately where there are concerns for the safety, protection or wellbeing of the aggrieved and instead require the court to consider whether any arrangements are required during the proceedings to protect the parties
- make clear that, despite other amendments about cross applications and orders, the court should be able to continue to make temporary protection orders as considered necessary
- require the court to determine the person most in need of protection and make it clear that this is 'in the relationship' as a whole rather than in relation to each application or alleged incident
- make clear that, ordinarily, an order should only be made against the primary aggressor in the relationship as a whole to protect the person most in need of protection; and
- make clear that, cross orders should only be made if the court is satisfied that there are exceptional circumstances where there is clear evidence that both parties are equally in need of protection in the relationship.

Implementation

The Taskforce recommends that the provisions contained within Part 3 Division 1A of the DFVP Act should be amended to reflect the following process for considering cross applications:

- The original application and the cross application must be heard at the same time and considered together by the court
- In considering both applications the court must look at the entire relationship between the parties from the beginning up until the date of the hearing, including any pattern of domestic and family violence and coercive controlling behaviour
- The court must determine the person most in need of protection in the relationship

- The court should make only one Domestic Violence Order which must be in favour of the person most in need of protection
- A court should only make cross orders favouring both parties in the exceptional circumstances where there is clear evidence that both parties are equally in need of protection in the relationship. The practical reality of this should be that cross orders are only made in *extremely rare* circumstances
- There should be a clarifying provision to make it clear that the court must not make a cross order if one party is more in need of protection than the other

Amendment should also be made to the' Principles for administering the Act' in section 4 making it clear that the person who is most in need of protection in the relationship must be identified, and also as a general rule, only one Domestic Violence Order should be in place protecting the person who is most in need of protection in the relationship – unless there are exceptional circumstances and clear evidence that both parties are equally in need of protection in the relationship. Importantly there should be an amendment to section 4(2)(f) so that it reads:

> *in circumstances in which there are conflicting allegations of domestic violence or indications that both persons in a relationship are committing acts of violence, including for their self-protection, the person who is most in need of protection in the relationship should be identified*

The Taskforce acknowledges that there will be a very small proportion of applicants and respondents who will have to have their cross application heard separately by virtue of the fact that final orders have already been made on the original application. To insist that such matters be heard together would be to force the aggrieved to re-litigate their application. While the Taskforce considered this option, the Taskforce has rejected this approach for two reasons. First, it would potentially retraumatise the victim and cause uncertainty. Second, it could encourage perpetrators to engage in systems abuse by submitting vexatious cross applications.

In general, where matters are heard together and safety concerns arise, the Taskforce considers that these safety issues can be adequately dealt with through existing provisions (for example those contained in section 151 DFVP Act).

Systems abuse and cost orders

The Taskforce suggests that section 157 (Costs) of the DFVP Act be amended to specify that a court has the power to award costs in cases where a party has intentionally used proceedings as a means of perpetrating domestic and family violence. This section of the DFVP Act arguably already gives the court a power to award costs when it is abundantly clear that an application is, for example, malicious. It is hoped the proposed amendment goes further and will 'sign post' to lawyers and systems abusers the power of the courts to award costs against those who use the legal system as a means of continuing abusive, coercive and controlling behaviour. This would in turn encourage judicial officers in appropriate cases to make costs orders, to 'call out' this kind of systems abuse, and to discourage others from bringing like applications.

Recommendation 57

The Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence immediately progress amendments to section 157 of the *Domestic and Family Violence Protection Act 2012* to specify that where a party has intentionally used proceedings as a means of committing or continuing domestic and family violence including coercive control, the court has the power to award costs against them.

Timing

These amendments should be introduced in 2022 and commenced, subject to passage, in 2023. Broad community consultation should take place on a draft Bill containing these amendments. This consultation should include legal, domestic and family violence, and Aboriginal and Torres Strait Islander stakeholders, and people with lived experience of domestic and family violence.

Human rights considerations

Human rights promoted

The human rights promoted and protected by these amendments include the right to recognition and equality before the law (section 15), the right to life (section 16), the protection from torture and cruel, inhumane or degrading treatment (section 17), the right to freedom of expression (section 21) and the protection of families and children (section 26). These rights have been discussed previously above.

Human rights limited

The very same rights that are promoted by the recommended amendments, particularly in relation to victims and their children, are arguably limited for the party that is unsuccessful in obtaining a Domestic Violence Order.

Limitations on rights are justified

The Taskforce considers any limitations on human rights would be able to be reasonably and demonstrably justified on the basis that the legitimate purposes of the limitations is to:

- provide greater protection for victims and their children from coercive and controlling abuse particularly victims of non-physical abuse; and
- reduce the risk of victims of coercive control being misidentified as a perpetrator; and
- assist in ensuring that the Domestic Violence Order made is reflective of who is really the person most in need of protection.

The Taskforce considers that limitations placed on the human rights of perpetrators by the amendments recommended will help to achieve the legitimate purpose of these amendments. Taking into account what the Taskforce has heard about the current provisions not providing clear protection for victims of coercive control and their children the Taskforce is satisfied that there is no less restrictive way of achieving the legitimate purpose with the same degree of efficacy.

Evaluation

The intention of these amendments is to address the issues that victims[85] and the support sector[86] have told the Taskforce about cross applications and orders being used by perpetrators to continue their abuse against victims.

Agencies should ensure data and information is collected in an extractable form before the commencement of the amendments to inform its review.

The review of the operation of the amendments should commence as soon as possible five years from its commencement to ensure they are operating as intended.

The review of the operation of the amendments should consider the impact and outcomes for victims including in relation to their safety.

Criminal history and domestic violence history information being provided to the court

The Taskforce learned of incidents of magistrates hearing domestic violence applications without being made aware of a perpetrator's criminal and/or domestic violence history.[87] This is resulting in the magistrates presiding over these matters not being able to give due consideration to the victim's need for protection from domestic violence,[88] including whether an intervention order has previously been made against the respondent, whether they have complied and to what extent (as is required by the legislation).[89]

There is a need for courts to be able to take both criminal and domestic violence histories into account when hearing applications to help them decide whether an order is needed and to assist in best tailoring the conditions to keep the victim safe.[90]

The Taskforce has also heard that in some cases judicial officers are not being provided with criminal histories at the time of sentencing perpetrators for offences involving domestic violence. This has been blamed on the volume of matters proceeding through the courts and the considerable time pressures.[91] It can result in inappropriate or inadequate sentences which do not reflect the nature and circumstances of the offending.

Recommendation 58

The Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence immediately progress amendments to the *Domestic and Family Violence Protection Act 2012* to require the Queensland Police Service to provide a copy of the respondent's criminal history to the court in all proceedings on private and police-initiated applications for a Domestic Violence Order.

Amendments will also be progressed to the *Domestic and Family Violence Protection Act 2012* to require the respondent's domestic violence history to be provided to the court in all proceedings on an application for a Domestic Violence Order.

Recommendation 59

The Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence immediately progress amendments to the *Penalties and Sentences Act 1992* to require the respondent's domestic violence history to be provided to the court where the perpetrator is being sentenced for the breach of a Domestic Violence Order or other domestic violence related offence.

The Department of Justice and Attorney-General and the Queensland Police Service will work together to determine the best way for a written report of the domestic violence history, which notes orders made under section 51 of the *Domestic and Family Violence Protection Act 2012*, to be recorded and provided to the court.

Implementation

Judicial officers presiding over private or police-initiated applications for Domestic Violence Orders and sentences for breaches for Domestic Violence Orders or other domestic violence offending must be given the full picture of a respondent or perpetrator's admissible criminal and domestic violence history.

Part 3, Division 1 of the DFVP Act[92] should be amended to require the QPS to provide the court with a copy of the respondent's criminal history in all private and police-initiated applications for a Domestic Violence Order and for the perpetrator in sentences for contravention offences under Part 7 of the Act.

While there is already arguably provision in section 9 of the *Penalties and Sentences Act 1992* (Penalties and Sentences Act) for a sentencing court to consider a perpetrator's domestic violence as part of the assessment of their character,[93] the Taskforce considers that a new section should be placed into Part 2 of the Penalties and Sentences Act to specifically require that a written report about the perpetrator's domestic violence history be provided to the court at the time of sentence.

It is recommended that this report should detail all applications for Domestic Violence Orders, Domestic Violence Orders and variations and contraventions of Domestic Violence Orders previously made against a perpetrator relating to any aggrieved or other named person, as well as whether the perpetrator has had the benefit of a diversion program (see chapter 3.9).

Further consultation should occur between the DJAG and the QPS to determine the best way for the report to be prepared, recorded and provided to the court. The Taskforce notes that similar legislation to that proposed by this recommendation is contained within section 95 of the *Child Protection Act 1999* and the operation of that provision may be of assistance when drafting the amendments to implement this recommendation.

Timing

These amendments should be introduced in 2022 and commenced, subject to passage, in 2023. Broad community consultation should take place on a draft Bill containing these amendments. This consultation should include legal, domestic and family violence, and Aboriginal and Torres Strait Islander stakeholders, and people with lived experience of domestic and family violence.

Actions required between passage of the legislation and commencement of the legislation

The successful implementation of these recommendations (58 and 59) will require the generation of accurate domestic violence reports appropriate for tendering in court. The Taskforce understands

that these are extracted from the QPRIME system and can vary in accuracy depending on how the system has been updated in the past to capture Domestic Violence Orders and varied conditions. QPS, DJAG and Queensland Corrective Services will need to review their operations and systems, ensure that staff are trained to accurately report information and may require funding should an upgrade or staff training be required.

Once it has been established who will prepare the proposed reports, the process for preparing them and the information they will contain, training will be needed for those preparing and relying on the reports to ensure their effective use. This will include but is not limited to police, lawyers and court staff. Judicial officers should also be made aware of the amendments. Due to the large volume of matters prosecutors are dealing with, particularly in the magistrates court, it is essential that the process of preparation and delivery of the reports is streamlined and simple.

All training will need to occur between passage and commencement.

Relevant agencies' systems to collect this data will need to be updated prior to the commencement of the amendments to include detail of the domestic violence history and reports which will be tendered.

Human rights considerations

The human rights promoted by the proposed amendments include the right to recognition and equality before the law (section 15), the right to life (section 16), the protection from torture and cruel, inhumane or degrading treatment (section 17), the protection of families and children (section 26), the right to liberty and security (section 29) and the right to a fair hearing (section 31). These rights have all been discussed previously above.

Human rights limited and justified

There is an argument that the proposed amendments may limit the right of alleged perpetrators to privacy and reputation (section 25) and the right to a fair hearing (section 31). These arguments may be particularly relevant to applications for Domestic Violence Orders where there are no criminal proceedings on foot. When balancing these limitations, the amendments could still be reasonably and demonstrably justified on the basis that the legitimate purpose of the limitation is to achieve protection for the person most in need of protection from domestic and family violence and to prevent the perpetration of further violence against the victim. Proceedings under the DFVP Act are generally held in closed court and there are significant restrictions on the publication of information that forms part of those hearings[94] therefore limiting the impact on the respondent's right to privacy. The Taskforce does not believe there is any less restrictive way of achieving the legitimate purpose of the recommended amendment.

Evaluation

It is intended that these amendments will assist courts to more accurately understand a perpetrators risk in the context of the perpetrators full domestic and family history.

Agencies should ensure data and information is collected in an extractable form before the commencement of the amendments to inform its review.

The review of the operation of the amendments should commence as soon as possible five years from its commencement to ensure they are operating as intended.

The review of the operation of the amendments should consider the impact and outcomes for victims including in relation to their safety.

Service of documents by police

Currently, notices and orders, including protection orders, may only be served by police officers[95]. The DFVP Act[96] and *Domestic and Family Violence Protection Rules 2014*[97] (DFVP Rules) contain various provisions requiring the personal service of documents on perpetrators accompanied by an explanation of what the document is.

In chapter 1.5, the Taskforce found that documents under the *Domestic and Family Violence Act 2012* should continue to be personally served by police, unless an alternative person serving (such as a police liaison officer), or a substituted method of service, would provide increased protection to the victim.

As noted in chapter 1.5, the Taskforce has heard that service can take police between a couple of hours and a number of weeks,[98] and on some occasions perpetrators cannot be served at all for such reasons as transience or being outside of the jurisdiction.[99] In some cases victims have had their safety compromised as a result of:

- courts being hesitant to make orders in these situations, or
- have been told that they would need to find the perpetrator themselves or expect no protection.[100]

The Taskforce has heard that perpetrators respond better to Domestic Violence Orders when they understand the conditions and consequences of breaching and have the order explained in a manner tailored to their circumstances.[101] The current process requiring personal service and explanation about the documents is more than just process serving – it is a valuable use of police resources providing procedural fairness and an important intervention point which reinforces that domestic and family violence will not be tolerated.

In consultation in the Torres Strait stakeholders raised the option of using Police Liaison Officers (PLO) to serve documents because those officers could do so in language and with cultural context to improve understanding for respondents.[102] The Taskforce sees merit in this notion providing appropriate mechanisms of support are put in place by QPS.

The Taskforce has heard that perpetrators are able to evade service and frustrate the process at the application and/or order stage. The resulting delay or reluctance of some magistrates to make an order at all compromises the safety of victims and their children.

The Taskforce acknowledges that concerns raised, particularly amongst those who support victims, that service by sworn police officers provides protection to victims in that it creates an opportunity for a person in authority tell a perpetrator that abuse will not be tolerated and that to allow substituted service will remove this protection and jeopardise safety for victims.[103]

The issue of substituted service was examined in the 2015 Victoria Royal Commission into Family Violence (Victorian Royal Commission). Recommendation 57, implemented in 2018, was to allow alternative service of applications for family violence intervention orders, the Victorian equivalent of a Domestic Violence Order. These changes allowed the Magistrates' Court of Victoria and the Children's Court of Victoria to order service of family violence intervention orders other than by personal service if the court is satisfied that alternative service is likely to be effective, will not result in an unacceptable risk to the safety of the protected person or any other person and is appropriate in all the circumstances.[104] The QPS has told the Taskforce that Queensland should adopt similar legislation.[105]

Recommendation 60

The Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence immediately progress amendments to the *Domestic and Family Violence Protection Act 2012* and to the associated Domestic and Family Violence Protection Rules 2014 to enable documents required to be served by a police officer to also be served by a police liaison officer. When documents are served by a police liaison officer, there should be a requirement for the police liaison officer to give the document or a copy to the person, tell them what the document is and explain it to them.

The amendments will also enable a court in limited circumstances to order substituted service for documents ordinarily required to be served by a police officer. Those limited circumstances are where the substituted service would provide better protection to the victim and:

- police have made reasonable attempts to serve the document personally and
- the police have reasonably reliable electronic or other contacts details for the respondent and
- the respondent agrees to be served by the alternative mechanism.

When substituted service is ordered, the responsible police officer will be required to provide a copy of the document to the respondent unless that is not reasonably possible in al the circumstances, tell them what the document is, and explain it to them.

Recommendation 61

To implement the legislative amendments in relation to service by police liaison officers (recommendation 60), the Queensland Police Service provide training and ongoing support to Police Liaison Officers to assist them to take on this role while maintaining their close functional relationships within their community.

This training should consistently align with the whole of system training and education framework developed by the Department of Justice and Attorney-General (recommendation 23).

This training should include the nature and impacts of domestic and family violence as well as information and guidance about the legislative amendments and how to recognise and deal with conflicts of interest.

Implementation

The Taskforce believes that it is in the best interests of victims and the community that there should be some avenue for an alternative method of service – either by an alternative person or substituted method.

The DFVP Act and DFVP Rules should be amended to enable documents, including Domestic Violence Orders, currently required to be served by sworn police officers to be served by a PLO. Sections 109 and 184 of the DFVP Act and Part 3 of the DFVP rules should be amended to allow for service by a PLO.

PLOs have an important role in the community which involves liaising between police and particular communities by having a relationship and connection to the community. Some stakeholders have raised concerns that to allow PLOs to take on the role of document service might undermine the trust and credibility that they have within the community because, for example, people might feel that they are getting involved in personal business that should not involve them.[106] There is concern that this could impact the ability of PLOs to perform their role more generally. While the Taskforce acknowledges these concerns it believes this could be addressed by QPS providing of training and operational support for PLOs. Police must also ensure they train PLOs to identify the sorts of conflicts of interest that may arise for them in serving documents and how to respond if conflicts arise.

There are some circumstances where despite the best efforts by the QPS, service will not be able to be affected. This is a particular issue when respondents evade service to frustrate the process. This leaves victims without the protection of a Domestic Violence Order for longer. The Taskforce believes that this problem can be resolved by amending the DFVP Act and the Domestic and Family Violence Protection Rules 2014 to make provision for substituted service. The amendments should enable a court to make an order for substituted serviced by police in strictly limited circumstances, namely:

- where there have been reasonable attempts made to serve the respondent, and
- the police have reliable contact details to enable alternative service, and
- the respondent agrees to accept service in this way.

The legislation should make it clear that when substituted service is ordered, where possible the documents should be explained to the respondent by alternative means. For consistency, these could mirror the 'tell provisions'[107] which give police the power to use telephone, email, SMS message, a social networking site or other electronic means to communicate the existence of an order.

The Taskforce acknowledges that the issue of substituted service may raise concerns regarding safety for victims and potential disadvantage to those being served by substituted means. To mitigate these concerns the amendments should contain appropriate and effective safeguards to ensure that safety of the victim is not compromised and that the perpetrator is aware of service (for example, read receipts or phone calls during service).

Timing

These amendments should be introduced in 2022 and commenced, subject to passage, in 2023. Broad community consultation should take place on a draft Bill containing these amendments. This consultation should include legal, domestic and family violence, and Aboriginal and Torres Strait Islander stakeholders, and people with lived experience of domestic and family violence.

Actions required between passage of the legislation and commencement of the legislation

The successful implementation of these amendments will require training not only of PLOs as discussed, but also training by magistrates, police, prosecutors and defence lawyers in the period between passage and commencement to ensure that they understand the implications of the amendments for service.

Human rights considerations

Rights promoted

The human rights promoted by the proposed amendments include are the right to recognition and equality before the law (section 15), the right to life (section 16), the protection from torture and

cruel, inhumane or degrading treatment (section 17), the protection of families and children (section 26), the right to liberty and security (section 29) and the right to a fair hearing (section 31).

They also promote cultural rights generally (section 27) and cultural rights of Aboriginal and Torres Strait Islander peoples (section 28) in that they will help ensure that orders are explained in language and with cultural context.

Rights limited

There may be an argument that the proposed amendments may arbitrarily limit the right of perpetrators to liberty and security (section 29) and right to a fair hearing (section 31) because the amendments might impact the effectiveness of the service, potentially exposing a perpetrator to unintentionally breaching the order and facing criminal penalties.

Limitations on rights are justified

Any potential limitation on human rights could be reasonably and demonstrably justifiable because the legitimate purpose of the limitation is to ensure that perpetrators are expeditiously served in order to keep victims and their children safe and to stop the perpetration of domestic and family violence. Further any potential limitation on human rights is mitigated by requiring a court to be satisfied that reasonable attempts have been made to personally serve a respondent and order that reasonable efforts are made to explain the order to a respondent by alternative means.

Evaluation

Agencies should ensure data and information is collected in an extractable form before the commencement of the amendments to inform its review.

The review of the operation of the amendments should commence as soon as possible five years from its commencement to ensure they are operating as intended.

The review of the operation of the amendments should consider the impact and outcomes for victims including in relation to their safety.

Amendments to the *Security Providers Act 1993*

Private investigators

The Taskforce has heard from some victims whose perpetrators have hired private investigators to find, monitor and follow them despite a Domestic Violence Order being in place.[108] The Taskforce has found that private investigators are being used by perpetrators as legal agents of continuing abuse and that surveillance of a partner or ex-partner where there is a Domestic Violence Order in place is even a specific service offered by some private investigators as a form of 'legal surveillance'.[109]

The Taskforce has been told in consultation that while security firms must be members of an industry association, individual private investigators are not subject to this requirement. This creates a vulnerability within the industry in terms of holding private operators to account where they are not a member of any association.[110]

While industry associations operating under the Security Providers legislation are required to have a code of conduct,[111] these lack consistency as each association is able to create their own code[112] and codes only enable associations to take remedial or disciplinary action against members.[113]

The Taskforce has found that private investigators in Queensland are not being educated about domestic and family violence and are not subject to an enforceable, legislative code of conduct.

Recommendation 62

The Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence immediately progress amendments to the *Security Providers Act 1993* and the Security Providers Regulation 2008 to introduce a new statutory code of conduct for private investigators. The code of conduct will include guidance for investigators about their responsibilities to protect victims of domestic and family violence including coercive control, and to hold perpetrators accountable so as to stop the violence. It will also incorporate a human rights framework.

The amendments will enable the regulator to require the licenced person to take action to rectify the non-compliance with the code of conduct, and to suspend or cancel the licence.

The code of conduct will be developed and implemented in consultation with industry bodies and licensed private investigators as well as domestic and family violence stakeholders and people with lived experience.

Implementation

The Taskforce recommends the introduction of a new statutory code of conduct that applies to all private investigators regardless of whether they are sole operators or members of a firm. The code should include a requirement that private investigators undertake annual training in domestic and family violence matters relevant to their industry, including:

- the patterned nature of coercive controlling behaviour
- the role of private investigators as bystanders
- private investigation in the context of human rights

The training should include an assessment component to ensure that private investigators know and understand the subject matter covered in training.

The code should also include a requirement that private investigators take reasonable steps to identify whether a Domestic Violence Order is in place in relation to the subject of the investigation before agreeing to engage in any private investigative work and must refrain from surveillance, monitoring, tracking or following and providing information that might cause further distress or harm to a victim of domestic violence.

Private investigators seeking to renew their licence should be required to sign a declaration stating that they have read and support the current code of conduct and are up to date on their training requirements.

Compliance with the code of conduct should be legislatively required for all private investigators with regulators having the ability to suspend or cancel a licence for a breach.

The crafting of a comprehensive and trauma informed code of conduct should be carried out in consultation with industry associations and licensed private investigators with 'boots on the ground' experience. Domestic and family violence stakeholders should also be included in the development of the code, as should persons with lived experience of domestic and family violence and coercive controlling behaviours.

Timing

These amendments should be introduced in 2022 and commenced, subject to passage, in 2023. Broad community consultation should take place on a draft Bill containing these amendments. This consultation should include legal, domestic and family violence, and Aboriginal and Torres Strait Islander stakeholders, and people with lived experience of domestic and family violence.

Actions required between passage of the legislation and commencement of the legislation

Training regarding the new code and its implications will be required between the passage of the amendments and commencement. Not only will private investigators, firms and industry associations require training, but also bodies responsible for educating private investigators and government regulators responsible for assessing licence applications and renewals.

The Taskforce considers that private investigators require education about domestic and family violence and coercive control and should be given better guidance on investigative techniques that are and are not acceptable to support them in ensuring that they do not continue to perpetuate abuse. Industry specific training will need to be developed in consultation with private investigators, industry bodies and the domestic and family violence support section.

Regulator's systems will require upgrading to ensure that private investigators applying for and renewing licences have met all of the new requirements including training and code of conduct compliance.

Human rights considerations

Human rights promoted

The human rights promoted by the proposed amendments include the right to recognition and equality before the law (section 15), the right to life (section 16), the protection from torture and cruel, inhumane or degrading treatment (section 17), the protection of families and children (section 26), the right to freedom of movement (section 19), the right to liberty and security (section 29) and the right to privacy and reputation (section 25).

As discussed above, coercive control is a liberty crime[114] because the ongoing pattern of abuse traps and isolate victims. These amendments promote the above rights by capturing a wider scope of abusive behaviour, including by private investigators acting on behalf of perpetrators, holding perpetrators to account and helping victims to be safe.

The right to privacy and movement is based upon Article 17 of the ICCPR and provides that a person has a right not to have their privacy, family, home or correspondence unlawfully and arbitrarily interfered with or their reputation unlawfully attacked. The Human Rights Committee has commented that Article 17 places an obligation on states to ensure that effective measures are taken to provide adequate legislation to ensure that people are effectively able to protect themselves from any unlawful acts that do occur and to have an effective remedy against those responsible.[115] The proposed amendments promote that right by placing more accountability on private investigators to conduct themselves in a manner that does not arbitrarily interfere with the movement and privacy of victims. As discussed in chapter 2.1, the right to privacy encompasses the protection of the 'physical and moral integrity of the person,'[116] protecting their physical and psychological integrity as well as their right to identity and personal development.[117]

Human rights limited

The amendments seeking to limit the ability of private investigators to monitor and control a victim on behalf of perpetrators. There may be an argument that the amendments may limit the freedom of association (section 22) by effectively preventing private investigators from working for some people who are respondents to Domestic Violence Orders.

Limitations on rights are justified

The legitimate purpose of the limitation is to prevent the continued abuse of domestic violence victims via licensed security providers. The limitation on the right to freedom of association is justifiable because it is limited in its scope to achieve the legitimate purpose, that is, it doesn't prevent a security provider acting for a respondent to a Domestic Violence Order all together -only in regards to surveillance on an aggrieved person. In considering what the Taskforce has heard from victims about the impact private investigators surveillance has had on them the Taskforce does not consider there are any less restrictive ways of achieving this legitimate purpose.

Evaluation

In the initial years following the amendments the Taskforce would hope to see private investigators undergoing regular training, complying with the new code and being breached where they fail to do so. There is a need for private investigators to have a nuanced understanding of domestic and family violence to avoid perpetuating abuse, including not taking on work that is simply perpetuating domestic and family violence. Those investigators who continue to perpetuate abuse should be prevented from holding a licence in the future.

Agencies should ensure data and information is collected in an extractable form before the commencement of the amendments to inform its review.

The review of the operation of the amendments should commence as soon as possible five years from its commencement to ensure they are operating as intended.

The review of the operation of the amendments should consider the impact and outcomes for victims including in relation to their safety.

Amendments to the *Evidence Act 1977*

Domestic violence relationship evidence

Section 132B of the Evidence Act allows for evidence of the history of the domestic violence relationship between the defendant and complainant to be admitted if it is relevant, in respect of offences in chapters 28-30 of the Criminal Code. Section 132B of the Evidence Act states:

> *132B Evidence of domestic violence*
>
> *(1) This section applies to a criminal proceeding against a person for an offence defined in the Criminal Code, chapters 28 to 30.*
>
> *(2) Relevant evidence of the history of the domestic relationship between the defendant and the person against whom the offence was committed is admissible in evidence in the proceeding.*
>
> *(3) In this section—*
>
> ***domestic relationship** means a relevant relationship under the Domestic and Family Violence Protection Act 2012, section 13.*
>
> *Note—*

Under the Domestic and Family Violence Protection Act 2012, section 13, a relevant relationship means an intimate personal relationship, a family relationship or an informal care relationship, as defined under that Act.

Chapters 28-30 contain offences including homicide, suicide, concealment of birth (chapter 28); unlawful striking or death (chapter 28A); endangering life or health (chapter 29); and assaults (chapter 30). However, evidence about the history of the domestic relationship between a defendant and complainant may be relevant to offences in other chapters of the Criminal Code.

In 1998, section 132B was introduced into the Evidence Act in Queensland. Discussion at the time of the introduction of the Criminal Law Amendment Bill, noted that the section addresses circumstances where women are driven to resorting to homicide which has occurred in the context of a relationship of domestic violence.[118] The original intention of the section and developments in the understanding of domestic violence since then, has been discussed by Campbell:

The provision was framed to respond to cases where women killed their violent abusers. Women's groups advocated for the introduction of the section, arguing that it would assist victims of domestic violence by ensuring a fairer trial process where the nature of the charged act could be fully understood. It was intended to aid in a woman's defence by shedding light on the context of the violent relationship. Our understanding of the law surrounding domestic violence has evolved considerably since 1998. Domestic violence is now understood as an issue that encompasses sexual assault, rape and extends to offences against children. This has in turn shifted the dynamic in regards to the utility of context or relationship evidence in assisting the prosecution case rather than that of the defendant. Whilst section 132B has been partially reformed to reflect these changing views, largely it has remained unaltered since its introduction. This is surprising given relationship evidence is routinely adduced in cases of sexual assault, rape and child sexual abuse.[119]

Relationship evidence can be admitted in trials to demonstrate the nature of a relationship between the complainant and defendant. In the decision of *R v Roach* [2011] HCA 12, the plurality observed that such evidence can be used for a number of purposes:

Evidence of the kind contemplated by s 132B – of other acts of domestic violence in the history of a relationship – may clearly enough qualify as similar fact evidence which might, in a particular case, be tendered as proof of an accused's propensity. It may also be relevant as evidence of a person's state of mind, or as part of the res gestae, which is to say, part of the circumstances of the crime. Its further possible relevance, to show the kind of relationship the complainant and the accused had and its use to assist in the evaluation of the complainant's evidence, will be discussed later in these reasons. And, in cases where the recipient of domestic violence is accused of an offence against the perpetrator of the violence, the evidence may be relevant and admissible to a plea of provocation or self-defence.[120]

One commentator considered that '[t]he law on relationship evidence in Queensland is far from clear. An analysis of existing case law and various interpretations of the provision [132B] demonstrate that this is a vexed issue and one that urgently requires reform.'[121] The provision has been described as not very useful[122] and redundant[123]. Further, very little has been said about the limited application of the section.[124] It has been observed that given there has been some confusion surrounding the common law position regarding relationship evidence in Queensland, it is surprising that 'legislative reform by way of expansion to section 132B has not been considered by the Parliament.'[125]

The submission to the Taskforce by the Office of the Director of Public Prosecutions acknowledges that there is 'some scope under the current framework for leading evidence of prior domestic violence under s132B *Evidence Act 1977* or by reliance on the common law for offences falling outside Chapters 28-30'.[126] Further it recognises that whilst the primary test of admissibility is relevance

under section 132B, there is a discretion to exclude the evidence.[127] The submission also describes how this evidence may be litigated in practice and the effect that it has in a criminal trial:

> 'Relationship evidence' is often the subject of contest, at least in part, when it is present in the particular case. The explanation may lie to some extent in the requirement that it be probative of a fact in issue in relation to the specific offence or offences being prosecuted. It is common for a challenge to be made on the basis that the evidence to be led is too prejudicial, or that it is dated, and thus not relevant. Of course, when evidence of prior violent conduct is admitted, it will be for the complainant (mostly) to give evidence of those past acts in oral testimony, thereby increasing the extent of their involvement in the criminal process and exposing them to greater scope for challenge.[128]

Academics from Griffith University and Charles Darwin University in their submission to the Taskforce recommended that 132B be amended to include express reference to any history of family violence. Their suggested revised section is as follows:

> *132B Evidence of domestic violence*
>
> *(1) This section applies to a criminal proceeding against a person for an offence defined in the Criminal Code, Chapters 28 to 30.*
>
> *(2) The history of the domestic relationship between the defendant and the person against whom the offence was committed, including any history of family violence, is admissible in evidence in the proceeding.*
>
> *(3) In this section—domestic relationship means a relevant relationship under the Domestic and Family Violence Protection Act 2012, section 13.*
>
> *(4) In this section—'family violence' means family violence as defined under the Domestic and Family Violence Protection Act 2012, section 8.*
>
> *Note – Under the DFVPA section 13, a relevant relationship means an intimate personal relationship, a family relationship or an informal care relationship, as defined under that Act.*
>
> *Note – Under the DFVPA 'family violence' is defined as [here insert the definition]. Sections 9, 10, 11, [and our new proposed section regarding coercive control] add detail to some aspects of the definition.*[129]

The submission also referred to section 39A of the *Evidence Act 1906* (WA). This provision does not have a chapter restriction and therefore applies to all offences. It states:

> *Evidence of family violence — general provision*
>
> *In proceedings for an offence, evidence of family violence is admissible if family violence is relevant to a fact in issue.*[130]

Recommendation 63

The Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence immediately progress amendments to section 132B of the *Evidence Act 1977* to remove the restriction of the application of the section to offences only in Chapters 28 to 30.

The effect of this amendment is to clarify that relevant evidence of the history of the domestic relationship between the defendant and the person against whom the offence was committed is admissible in evidence in the proceeding on any offence.

Implementation

It is recommended that the chapter limitation in section 132B be removed, so that section has potential application to all offences in the Criminal Code.

Admission of evidence of the history of the domestic relationship pursuant to Section 132B relies only upon the criteria of relevance contained within the section itself. This amendment is not intended to and does not reframe the law as to propensity evidence or similar fact evidence.

It is acknowledged that the common law can be relied upon to admit relevant evidence about the history of domestic violence between a defendant and complainant in relation to offences which fall outside chapters 28-30. But the present chapter restriction in section 132B is unnecessary and apt to confuse.

There is no logical reason for a separate approach to admission of relevant evidence of domestic violence based upon where an offence sits within the Criminal Code.

Timing

These amendments should be introduced in 2022 and commenced, subject to passage, in 2023. Broad community consultation should take place on a draft Bill containing these amendments. This consultation should include legal, domestic and family violence, and Aboriginal and Torres Strait Islander stakeholders, and people with lived experience of domestic and family violence.

Actions required between passage of the legislation and commencement of the legislation.

Consultation with the heads of jurisdiction and legal stakeholders should take place on a draft Bill containing these amendments.

Judicial officers and lawyers will be affected by this legislative amendment. Training of all relevant lawyers including prosecutors, lawyers working for LAQ and their preferred suppliers should take place prior to commencement of the amendments.

Human rights considerations

Human rights promoted

In respect of the proposed legislative amendment and the compatibility with the Human Rights Act, the following human rights are potentially engaged and promoted by this recommendation:

- Right to life (section 16)
- Protection from torture and cruel, inhuman or degrading treatment (section 17)
- Protection of families and children (section 26)

The Human Rights Act recognises that every person has a right to life. Domestic and family violence, including coercive control, is conduct that falls under the definition of torture and cruel, inhuman or degrading treatment under the Act.[131] The purpose for the expansion of section 132B of the *Evidence Act* is to enable the section to apply to all offences and thereby offer better protection to victims including women and children from domestic and family violence. In this way it promotes the human rights outlined in sections 16, 17 and 26 of the Human Rights Act.

Human rights limited

The following human rights are potentially engaged and limited by this recommendation:

- Fair hearing (section 31)
- Rights in criminal proceedings (section 32)

Section 31 of the Human Rights Act states that '[a] person charged with a criminal offence or a party to a civil proceeding has the right to have the charge or proceeding decided by a competent, independent and impartial court or tribunal after a fair and public hearing.' [132] Section 32 of Human Rights Act states that '[a] person charged with a criminal offence has the right to be presumed innocent until proved guilty according to law.'[133] While it may be argued that the wider application of section 132B of the Evidence Act may limit these rights, it could also be suggested that this recommendation ensures that a fair and public hearing occurs. Further, if a person is found guilty, it will be on the basis of a correct understanding of the evidence about domestic and family violence.

Limitation on rights are justified

Whilst it is acknowledged that a person's right to a fair hearing and in criminal proceedings are important, it is suggested that the importance of preserving the human rights of victims of domestic and family violence outweighs any potential limitation on those rights. The amendment has a legitimate purpose of ensuring a fair and public hearing occurs consistent with the triangulation of interests' approach described above. Further, the expansion of section 132B will not alter a defendant's right to test evidence that is admitted therefore its scope is limited to achieving its legitimate purpose. Therefore, the impact that this amendment has upon the defendant's rights under sections 31 and 32 of the Human Rights Act is minimal.

Evaluation

It is intended that this recommended amendment will help to better ensure that evidence of the history of the domestic violence relationship between the defendant and complainant is able to be admitted if it is relevant in respect of all offences contained in the Criminal Code.

Agencies should ensure data and information is collected in an extractable form before the commencement of the amendments to inform its review.

The review of the operation of the amendments should commence as soon as possible five years from its commencement to ensure they are operating as intended.

The review of the operation of the amendments should consider the impact and outcomes for victims including in relation to their safety.

Expert evidence

It has been recognised that '[m]any victims of coercive control will have suffered long-lasting emotional harm.'[134] Domestic abuse can also have a psychological impact upon a victim. There are difficulties demonstrating emotional and psychological harm suffered by a victim, in the absence of expert evidence being led in a jury trial.[135] Another challenge in prosecuting an offence of coercive control is presenting evidence which may seem innocuous, but can be consistent with controlling behaviour. Evidence explaining this kind of conduct would enable a jury to better understand the nature of it.[136]

The State of Western Australia has introduced section 39 into the *Evidence Act 1906* (WA) which enables expert evidence to be presented in matters involving domestic and family violence. The section provides:

> *39. Expert evidence of family violence*
>
> *(1) This section applies to any criminal proceedings where evidence of family violence is relevant to a fact in issue.*
>
> *(2) The evidence of an expert on the subject of family violence is admissible in relation to any matter that may constitute evidence of family violence.*

> *(3) Evidence given by the expert may include —*
>
> *(a) evidence about the nature and effects of family violence on any person; and*
>
> *(b) evidence about the effect of family violence on a particular person who has been the subject of family violence.*
>
> *(4) For the purposes of this section, an expert on the subject of family violence includes a person who can demonstrate specialised knowledge, gained by training, study or experience, of any matter that may constitute evidence of family violence.*

The Explanatory Memorandum for the *Family Violence Legislation Reform Bill 2019* (WA) explains the rationale for implementing this section:

> *While community awareness and knowledge about family violence is improving, there is still widespread misunderstanding about the nature and dynamics of abusive relationships and their impacts. In this context, expert evidence given by, for example, researchers, family violence workers and others with expertise in this area, can be particularly vital for the judicial officer or jury to properly understand the issues at trial. This evidence can also work to dispel any misconceptions that the judicial officer or jurors may have about the nature and dynamics of family violence that may impact on their assessment of a case.*[137]

It is recommended that a section based upon section 39 of the *Evidence Act 1906* (WA) be implemented in the Evidence Act.

The Taskforce received significant feedback in favour of law reform aimed at making evidence of coercive control admissible, particularly from stakeholders from the domestic and family violence support sector.[138] More specifically, the Taskforce heard in consultation that law reform is needed to make it easier to admit expert evidence of domestic and family violence.[139]

Sheehy, Stubbs and Tolmie (2012, 484–485) have also recognised that:

> *[W]ithout legislative guidance there is no reason why such evidence should not be admissible, but the onus is on individual lawyers and judges to recognise its relevance and significance… However, the absence of an authoritative judicial pronouncement or clear legislative directive means that cases are still being conducted without such expert evidence.*[140]

In Queensland, the admissibility of expert evidence is a discretionary matter that is considered by the court. In order for expert evidence to be admissible under the common law, it is generally recognised that certain pre-conditions must be established:

- There is an organised branch of special skill or knowledge related to that area
- The witness must be sufficiently qualified / an expert in that area
- The opinion must not be in respect to a matter of common knowledge
- The opinion must not be in respect of the "ultimate issue"
- The facts upon which the opinion is based must be capable of proof by admissible evidence[141]

In *Makita (Australia) Pty Ltd v Sprowles* (2001) 52 NSWLR 705, Heydon JA (as he then was) summarised the applicable common law in relation to the admissibility of expert evidence:

> *In short, if evidence tendered as expert opinion evidence is to be admissible, it must be agreed or demonstrated that there is a field of "specialised knowledge"; there must be an identified aspect of that field in which the witness demonstrates that by reason of*

specified training, study or experience, the witness has become an expert; the opinion proffered must be "wholly or substantially based on the witness's expert knowledge"; so far as the opinion is based on facts "observed" by the expert, they must be identified and admissibly proved by the expert, and so far as the opinion is based on "assumed" or "accepted" facts, they must be identified and proved in some other way; it must be established that the facts on which the opinion is based form a proper foundation for it; and the opinion of an expert requires demonstration or examination of the scientific or other intellectual basis of the conclusions reached: that is, the expert's evidence must explain how the field of "specialised knowledge" in which the witness is expert by reason of "training, study or experience", and on which the opinion is "wholly or substantially based", applies to the facts assumed or observed so as to produce the opinion propounded. If all these matters are not made explicit, it is not possible to be sure whether the opinion is based wholly or substantially on the expert's specialised knowledge. If the court cannot be sure of that, the evidence is strictly speaking not admissible, and, so far as it is admissible, of diminished weight. [142]

Recommendation 64

The Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence immediately progress amendments to the *Evidence Act 1977* modelled on section 39 of the *Evidence Act 1906 (WA)* to allow relevant expert evidence to be admitted in criminal proceedings about the nature and effects of domestic and family violence including coercive control:

- generally, on any person; and
- on a particular person who has been the subject of domestic and family violence.

Implementation

It is recommended that the *Evidence Act 1977* be amended to include a provision modelled upon sections 39 *Evidence Act 1906* (WA). Section 39 of the *Evidence Act 1906* (WA) is drafted in a way that is consistent with the common law on expert evidence

Timing

These amendments should be introduced in 2022 and commenced, subject to passage, in 2023. Broad community consultation should take place on a draft Bill containing these amendments. This consultation should include legal, domestic and family violence, and Aboriginal and Torres Strait Islander stakeholders, and people with lived experience of domestic and family violence.

Actions required between passage of the legislation and commencement of the legislation

It is acknowledged that there can also be practical difficulties with leading expert evidence, including experts in the area not being available and the costs associated with engaging an expert.[143] Before the commencement of these amendments the Office of the Director of Public Prosecutions (ODPP), Police Prosecution Corps (PPC), and LAQ should work with the domestic and family violence sector and academic institutions to develop their understanding of where expertise lies within Queensland and Australia and develop resources that will assist lawyers to find the expert evidence they need. The ODPP, PPC and LAQ may require additional funding to assist them to pay for written reports and expert witness expenses.

Human Rights considerations

In respect of this proposed legislative amendment and the compatibility with the Human Rights Act, the human rights which are potentially engaged promoted and limited are the same as the proposed amendment concerning jury directions outlined above. Similar to the analysis for jury directions above the Taskforce considers that the proposed amendments enhance the fairness of criminal proceedings by improving the quality of information that is put before the decision maker to assist them to make a well-informed assessment of the facts.

Evaluation

It is intended that this recommended amendment will help facilitate the admission of expert evidence about domestic and family violence in criminal trials in Queensland which will assist judicial officer and juries to have an accurate understanding about the impacts of domestic and family violence on victims and how that may influence behaviour.

Agencies should ensure data and information is collected in an extractable form before the commencement of the amendments to inform its review.

The review of the operation of the amendments should commence as soon as possible five years from its commencement to ensure they are operating as intended.

The review of the operation of the amendments should consider the impact and outcomes for victims including in relation to their safety.

Jury directions

Concerns have been raised about the extent to which juries will understand the nature of domestic violence offending, particularly where it constitutes an offence of coercive control. These concerns include:

- It has been recognised that whilst there is increasing public awareness about coercive behaviour, jurors may be unable to recognise coercion in "all but its grossest form".[144] Jurors need an understanding about the nature of a relationship of coercive control when they are assessing the behaviour of the parties.[145]
- Coercive control occurs over a period of time, which involves victims giving evidence about numerous incidents and continuous behaviour. Where there are a number of stressful incidents that have occurred, the memory of the victim may be affected. Research suggests that the general public are likely to hold the inaccurate belief that the memory of a person can accurately recall an event.[146]
- Another myth that juries may believe is that the victim would have left the perpetrator if they were telling the truth. Since the beginning of domestic abuse studies being conducted, this belief has been commonly held.[147]

  It has also been recognised that directions about victim myths in relation to sexual offending are likely to be relevant in coercive control cases. This includes the reasons that victim may not report crimes immediately; further offending being disclosed during the court process; inconsistencies in the accounts given by the victim at different stages of the process; and the demeanour of a victim.[148]

The report by the New South Wales Parliament's Joint Select Committee on Coercive Control about coercive control in domestic relationships provided examples of issues which could be addressed through jury directions including:

- contesting 'rape myths and victim blaming'
- the fact that domestic abuse is 'not just physical'
- the 'impact of coercion and controlling behaviour'
- information about 'what acts of resistance might look like'
- how trauma could affect victim survivors' appearance as a witness (including its impact on memory and credibility)[149]

Jury directions should not usurp the jury's function in evaluating evidence. However, this should be considered in the context of mainstream criminal trial proceedings in Australia, which are adversarial in nature. It has been recognised that narratives are central to the 'purpose and function of Australian criminal law.' The prosecution and defence counsel each present to the jury a narrative sought to be proved by evidence in the form of witnesses and exhibits. The role of the jury is to consider the evidence and decide whether the prosecution has proved the case to the standard of beyond reasonable doubt. This involves assessing the competing versions of events presented in the trial.[150]

Cases involving sexual offences or those committed in a domestic and family violence context often rely largely or entirely on evidence from the victim. This means that the jury must make an assessment about whether the victim is telling the truth and they are therefore satisfied of the guilt of the accused person beyond reasonable doubt. Therefore, it is important that jurors evaluate the competing narratives based upon evidence in a trial, without being influenced by incorrect stereotypes and misconceptions.

Judicial directions addressing this are necessary, as they ensure that juries make decisions based upon a correct foundation about the nature of domestic and family violence.[151]

Furthermore, the Queensland Law Reform Commission in their report reviewing jury directions noted that '[n]umerous studies have shown that juries are too often confused or unsure about the law that they have to apply and the issues that they must resolve.'[152] It is vital that there not be confusion surrounding the key issues that must be considered by the jury in cases involving domestic and family violence.

Victorian approach

In 2014, the State of Victoria introduced sections about jury directions on family violence into the *Jury Directions Act 2015* (Vic). Part 6 of the *Jury Directions Act 2015* (Vic) contains sections 55 – 59 which are directions that may be given in criminal proceedings in which self-defence or duress in the context of family violence is in issue.[153]

Section 58, the request for a direction on family violence, is as follows:

> *58 Request for direction on family violence*
>
> *(1) Defence counsel (or, if the accused is unrepresented, the accused) may request at any time that the trial judge direct the jury on family violence in accordance with section 59 and all or specified parts of section 60.*
>
> *(2) The trial judge must give the jury a requested direction on family violence, including all or specified parts of section 60 if so requested, unless there are good reasons for not doing so.*
>
> *(3) If the accused is unrepresented and does not request a direction on family violence, the trial judge may give the direction in accordance with this Part if the trial judge considers that it is in the interests of justice to do so.*
>
> *(4)The trial judge—*

(a) must give the direction as soon as practicable after the request is made; and

(b) may give the direction before any evidence is adduced in the trial.

(5) The trial judge may repeat a direction under this Part at any time in the trial.

(6) This Part does not limit what the trial judge may include in any other direction to the jury in relation to evidence given by an expert witness.[154]

Section 59 outlines the content of the direction given on family violence under section 58:

59 Content of direction on family violence

In giving a direction under section 58, the trial judge must inform the jury that—

(a) self-defence or duress (as the case requires) is, or is likely to be, in issue in the trial; and

(b) as a matter of law, evidence of family violence may be relevant to determining whether the accused acted in self-defence or under duress (as the case requires); and

(c) in the case of self-defence, evidence in the trial is likely to include evidence of family violence committed by the victim against the accused or another person whom the accused was defending; and

(d) in the case of duress, evidence in the trial is likely to include evidence of family violence committed by another person against the accused or a third person.[155]

Section 60 outlines additional matters that can be given in the direction on family violence under section 58:

60 Additional matters for direction on family violence

In giving a direction requested under section 58, the trial judge may include any of the following matters in the direction—

(a) that family violence—

(i) is not limited to physical abuse and may include sexual abuse and psychological abuse;

(ii) may involve intimidation, harassment and threats of abuse;

(iii) may consist of a single act;

(iv) may consist of separate acts that form part of a pattern of behaviour which can amount to abuse even though some or all of those acts may, when viewed in isolation, appear to be minor or trivial;

(b) if relevant, that experience shows that—

(i) people may react differently to family violence and there is no typical, proper or normal response to family violence;

(ii) it is not uncommon for a person who has been subjected to family violence—

(A) to stay with an abusive partner after the onset of family violence, or to leave and then return to the partner;

(B) not to report family violence to police or seek assistance to stop family violence;

(iii) decisions made by a person subjected to family violence about how to address, respond to or avoid family violence may be influenced by—

(A) family violence itself;

(B) cultural, social, economic and personal factors;

(c) that, as a matter of law, evidence that the accused assaulted the victim on a previous occasion does not mean that the accused could not have been acting in self-defence or under duress (as the case requires) in relation to the offence charged.[156]

The purpose of these sections regarding directions to jury members on family violence are to:

Address common misconceptions about family violence by permitting defence counsel to request jury directions on family violence, and
Continue to give the prosecution sufficient scope to conduct their case, including arguing about the applicability of the misconceptions to the particular accused, and calling expert evidence.[157]

The reasoning behind the implementation of these sections is explained:

Research suggests that there is a limited understanding about family violence within the legal profession and general community. This makes it more difficult for victims of family violence to raise self-defence or duress successfully, as their actions are less likely to be considered reasonable.

Accordingly, the new jury directions are designed to proactively address common misconceptions about family violence, so that claims of self-defence and duress can be assessed in context.[158]

Western Australian approach

In 2020, the State of Western Australia introduced sections (39C to 39G) into the *Evidence Act 1906* (WA) which allows for jury directions to be given about family violence. Section 38 of the *Evidence Act 1906* (WA) is an including, but not limited to, provision which outlines the types of evidence which may constitute evidence of family violence:

38. What may constitute evidence of family violence

(1) For the purposes of sections 39 to 39G, evidence of family violence, in relation to a person, includes (but is not limited to) evidence of any of the following —

(a) the history of the relationship between the person and a family member, including violence by the family member towards the person, or by the person towards the family member, or by the family member of the person in relation to any other family member;

(b) the cumulative effect of family violence, including the psychological effect, on the person or a family member affected by that violence;

(c) social, cultural or economic factors that impact on the person or a family member who has been affected by family violence;

(d) responses by family, community or agencies to family violence, including further violence that may be used by a family member to prevent, or in retaliation to, any help-seeking behaviour or use of safety options by the person;

(e) ways in which social, cultural, economic or personal factors have affected any help-seeking behaviour undertaken by the person, or the safety options realistically available to the person, in response to family violence;

(f) ways in which violence by the family member towards the person, or the lack of safety options, were exacerbated by inequities experienced by the person, including inequities associated with (but not limited to) race, poverty, gender, disability or age;

(g) the general nature and dynamics of relationships affected by family violence, including the possible consequences of separation from a person who commits family violence;

(h) the psychological effect of family violence on people who are or have been in a relationship affected by family violence;

(i) social or economic factors that impact on people who are or have been in a relationship affected by family violence.

(2) Subsection (1) does not limit the operation of the Restraining Orders Act 1997 section 5A(2).[159]

Sections 39C to 39G are provisions which relate to directions to be given by to jury members by judicial officers about family violence. The Explanatory Memorandum for the *Family Violence Legislation Reform Bill 2019* (WA) explains the purpose of these directions being given to juries about family violence:

> *These directions are designed to address common stereotypes, myths and misconceptions about family violence. The directions can be utilised in criminal proceedings where there is evidence of family violence and the evidence is relevant to the determination of issues in the trial.*[160]

The Explanatory Memorandum outlines the design of each of the sections, as follows:

> *Section 39C (Request for direction on family violence – self-defence) sets out a framework for requests for directions on family violence where self-defence is at issue in a trial.*
>
> *Section 39D (Request for direction on family violence – general provision) sets out a framework for requests for directions on family violence in other cases.*
>
> *Section 39E (Content of direction on family violence) relates to the contents of a direction where self-defence is at issue in a trial.*
>
> *Section 39F (Additional matters for direction on family violence) sets out other directions on family violence that may be given. The matters set out in this section are aimed at addressing misconceptions that jury members may have about family violence.*
>
> *Section 39G (Application of s. 39E and 39F to criminal proceedings without juries) specifies how these sections apply in a judge-alone trial.*[161]

Section 39C, the section which allows for a request can be made by defence counsel or the accused if unrepresented for a direction on family violence where self-defence is an issue, is as follows:

39C. Request for direction on family violence — self-defence

(1) In criminal proceedings in which self-defence in response to family violence is an issue, defence counsel (or, if the accused is unrepresented, the accused) may request at any time that the trial judge direct the jury on family violence in accordance with section 39E and all or specified parts of section 39F.

(2) The trial judge must give the jury a requested direction on family violence, including all or specified parts of section 39F if so requested, unless there are good reasons for not doing so.

(3) If a direction on family violence is not requested, the trial judge may give the direction if the trial judge considers that it is in the interests of justice to do so.

(4) The trial judge —

(a) must give the direction as soon as practicable after the request is made; and

(b) may give the direction before any evidence is adduced in the trial.

(5) The trial judge may repeat a direction at any time in the trial.

(6) This section, and sections 39E and 39F, do not limit what the trial judge may include in any other direction to the jury, including in relation to evidence given by an expert witness.[162]

Section 39D enables a request for a direction on family violence:

39D. Request for direction on family violence — general provision

(1) In criminal proceedings in which family violence is an issue, prosecution or defence counsel (or, if the accused is unrepresented, the accused) may request at any time that the trial judge direct the jury on family violence in accordance with all or specified parts of section 39F.

(2) The trial judge must give the jury a requested direction on family violence, including all or specified parts of section 39F if so requested, unless there are good reasons for not doing so.

(3) If a direction on family violence is not requested, the trial judge may give the direction if the trial judge considers that it is in the interests of justice to do so.

(4) The trial judge —

(a) must give the direction as soon as practicable after the request is made; and

(b) may give the direction before any evidence is adduced in the trial.

(5) The trial judge may repeat a direction at any time in the trial.

(6) This section, and section 39F, do not limit what the trial judge may include in any other direction to the jury, including in relation to evidence given by an expert witness.[163]

Section 39E outlines the content that can be given in a direction on family violence under section 39C:

39E. Content of direction on family violence

In giving a direction under section 39C, the trial judge must inform the jury that —

(a) self-defence is, or is likely to be, an issue in the trial; and

(b) as a matter of law, evidence of family violence may be relevant to determining whether the accused acted in self-defence; and

(c) evidence in the trial is likely to include evidence of family violence committed by the victim against the accused or another person whom the accused was defending.[164]

Section 39F outlines additional matters that can be given in the direction requested under section 39C or 39D:

39F. Additional matters for direction on family violence

(1) In giving a direction requested under section 39C or 39D, the trial judge may include any of the following matters in the direction —

(a) that family violence —

(i)is not limited to physical abuse and may, for example, include sexual abuse, psychological abuse or financial abuse;

(ii)may amount to violence against a person even though it is immediately directed at another person;

(iii)may consist of a single act;

(iv)may consist of separate acts that form part of a pattern of behaviour which can amount to abuse even though some or all of those acts may, when viewed in isolation, appear to be minor or trivial;

(b) if relevant, that experience shows that —

(i)people may react differently to family violence and there is no typical, proper or normal response to family violence;

(ii)it is not uncommon for a person who has been subjected to family violence to stay with an abusive partner after the onset of family violence, or to leave and then return to the partner;

(iii)it is not uncommon for a person who has been subjected to family violence not to report family violence to police or seek assistance to stop family violence;

(iv)decisions made by a person subjected to family violence about how to address, respond to or avoid family violence may be influenced by a variety of factors;

(v)it is not uncommon for a decision to leave an abusive partner, or to seek assistance, to increase apprehension about, or the actual risk of, harm;

(c) in the case of self-defence, that, as a matter of law, evidence that the accused assaulted the victim on a previous occasion does not mean that the accused could not have been acting in self-defence in relation to the offence charged.

(2) In making a direction under subsection (1), the trial judge may also indicate that behaviour, or patterns of behaviour, that may constitute family violence may include (but are not limited to) —

(a) placing or keeping a person in a dependent or subordinate relationship;

(b) isolating a person from family, friends or other sources of support;

(c) controlling, regulating or monitoring a person's day-to-day activities;

(d) depriving or restricting a person's freedom of movement or action;

(e) restricting a person's ability to resist violence;

(f) frightening, humiliating, degrading or punishing a person, including punishing a person for resisting violence;

(g) compelling a person to engage in unlawful or harmful conduct.

(3) If the trial judge makes a direction that relates to subsection (1)(b)(iv), the trial judge may also indicate that decisions made by a person subjected to family violence about how to address, respond to or avoid family violence may be influenced by such things as the following —

(a) the family violence itself;

(b) social, cultural, economic or personal factors, or inequities experienced by the person, including inequities associated with (but not limited to) race, poverty, gender, disability or age;

(c) responses by family, community or agencies to the family violence or to any help-seeking behaviour or use of safety options by the person;

(d) the provision of, or failure in the provision of, safety options that might realistically have provided ongoing safety to the person, and the person's perceptions of how effective those safety options might have been to prevent further harm;

(e) further violence, or the threat of further violence, used by a family member to prevent, or in retaliation to, any help-seeking behaviour or use of safety options by the person.[165]

In respect of sections 39C – 39F of the *Evidence Act 1906* (WA), the Explanatory Memorandum explains the reasoning for implementing these sections:

> *Research demonstrates that the nature and dynamics of family violence are not well understood in the community. For example, many members of the community do not understand how the dynamics of family violence may impact on the behaviour of victims of family violence, such as why a victim of family violence may remain in an abusive relationship. Consequently, these victims, and any action they may take in self-defence, are often perceived to be irrational or unreasonable. However, research has found that it is not uncommon for victims of family violence to remain in abusive relationships for a variety of reasons, including fear of retaliatory violence, concern for children, lack of finances and/or lack of alternative accommodation.*
>
> *The matters set out in these directions are therefore designed to proactively address these and other misconceptions jurors may have about family violence and to inform jurors of the factors impacting victims of family violence. This will allow the jury to better assess the actions or claims of an accused or complainant where they are relevant to deciding issues in a trial.*[166]

Amendments to the Evidence Act to introduce jury directions received significant support across a wide range of organisational submissions, as noted in chapter 1.6. A number of authors were supportive of the provisions in the Western Australian legislation. This amendment was broadly supported by the submissions which identified the need for a criminal justice system that better understands domestic and family violence.

Recommendation 65

The Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence immediately progress amendments to the *Evidence Act 1977* modelled on sections 38, 39C-39F of *the Evidence Act 1906 (WA)* to provide for jury directions to be made in proceedings for domestic violence related offences and where domestic violence has been raised in evidence during a trial to address stereotypes and misconceptions about family violence.

- This will enable juries to be better informed and able to consider the evidence that has been raised during the trial.

Implementation

It is recommended that the *Evidence Act 1977*, be amended by introducing provisions for jury directions that are modelled closely on sections 38 and 39C – 39G of the *Evidence Act 1906* (WA) which are as follows:

- 38. What may constitute evidence of family violence
- 39C. Request for direction on family violence – self-defence
- 39D. Request for direction on family violence – general provision
- 39E. Content of direction on family violence
- 39F. Additional matters for direction on family violence
- 39G. Application of s.39E and 39F to criminal proceedings without juries[167]

Timing

These amendments should be introduced in 2022 and commenced, subject to passage, in 2023. Broad community consultation should take place on a draft Bill containing these amendments. This consultation should include legal, domestic and family violence, and Aboriginal and Torres Strait Islander stakeholders, and people with lived experience of domestic and family violence.

Actions required between passage of the legislation and commencement of the legislation

Judicial officers and lawyers will be affected by these legislative amendments. Consultation with the heads of jurisdiction and legal stakeholders should take place on a draft Bill containing these amendments.

Training for lawyers including prosecutors, lawyers working for LAQ and their preferred suppliers should take place before the legislation has commenced.

The Chief Justice and the Chief Judge should consider amending the District and Supreme Courts Criminal Directions Benchbook to include detailed directions about domestic and family violence, as per the contents of the sections of the legislation once passed.

Human rights considerations

Human rights promoted

In respect of the proposed legislative amendment and the compatibility with the Human Rights Act, the following human rights are potentially engaged and promoted by this recommendation:

- Right to life (section 16)
- Protection from torture and cruel, inhuman or degrading treatment (section 17)
- Protection of families and children (section 26)
- Fair hearing (section 31)
- Rights in criminal proceedings (section 32)

The introduction of jury directions on family violence promotes the above sections of the Human Rights Act as it enables jury members to have a more accurate understanding of the domestic and family violence suffered by the victim in a trial. The sections also enable directions to be given in trials involving defendants where evidence of domestic violence is relevant to determining whether they acted in self-defence. In this way, the directions promote human rights about the protection of victims, as well as fairness rights in criminal proceedings for victims and defendants.

Human rights limited

The following human rights are potentially engaged and limited by this recommendation: fair hearing (section 31) and rights in criminal proceedings (section 32). The Taskforce notes the following passage from the Victorian Law Reform Commission's 2009 report jury directions discussing the right to fair hearing under *Charter of Human Rights and Responsibilities 2006* (Vic):

> *The proposed legislation is clearly not intended to derogate from the overriding judicial obligation to ensure a fair trial. Rather, the legislation is intended to emphasise and give content to the trial judge's obligation. In this report the commission has stressed the need for comprehensive legislation to replace the common law in response to the problems outlined in Chapters 2 3 and 4. Although the common law on jury directions has evolved to protect the right to a fair trial, the current approach is not necessarily the sole way of ensuring a fair hearing. The VGSO advice to the commission expresses the view that if the proposed legislation allows judges to fulfil their fair hearing obligation in a manner equal to or better than the common law rules that have developed, the legislation will be compatible with the fair hearing right in section 24 of the Charter. The commission believes that the proposed legislation meets this test*[168]

Limitation on rights are justified

Section 13 outlines that '[a] human right may be subject under law only to reasonable limits that can be demonstrably justified in a free and democratic society based on human dignity, equality and freedom.'[169] It is suggested that this recommendation promotes the protection of victims and supports the notion of a fair court hearing for both the victim and defendant.

While it may be argued that the implementation of jury directions about family violence may limit the rights in court proceedings, it can also be suggested that further detail provided to juries about family violence ensures that a fair court hearing takes place. The use of directions about domestic and family violence has a legitimate purpose in that it enables jury members to have a more accurate understanding of the evidence and the context in which the offending has occurred. Further, it does not limit the rights of defendants who are seeking to rely upon evidence of domestic and family violence to support a defence of self-defence. The Taskforce does not believe there is a less restrictive means of achieving the legitimate purpose of this recommended amendment.

Evaluation

The intention of this amendment is to ensure the juries are able to assess relevant information about domestic and family violence in the correct context.

Agencies should ensure data and information is collected in an extractable form before the commencement of the amendments to inform its review.

The review of the operation of the amendments should commence as soon as possible five years from its commencement to ensure they are operating as intended.

The review of the operation of the amendments should consider the impact and outcomes for victims including in relation to their safety.

Amendments to the *Penalties and Sentences Act 1992*

Coercive control as a mitigating factor on sentence

The Penalties and Sentences Act currently states that if a court is sentencing a perpetrator for a domestic violence offence, the fact that it is a domestic violence offence is to be considered as an aggravating factor unless there are exceptional circumstances.[170] However, the legislation does not enable a court to consider whether a person's offending was attributable to the offender being a victim of coercive control.

Recommendation 66

The Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence immediately progress amendments to the *Penalties and Sentences Act 1992* to require a court, when sentencing an offender to consider whether the impact of being a victim of domestic and family violence, including coercive control, on their offending behaviour is a mitigating factor

Implementation

It is suggested that the Penalties and Sentences Act be amended to require a sentencing court to have regard to whether an offender's criminal behaviour is attributable, wholly or in part, to the offender being a victim of coercive control. Incorporating this into the legislation would make it explicit that, where applicable, it is a factor that must be taken into account in mitigation of the sentence.

In chapter 1.1, the research revealed that perpetrators rely on dominating and oppressive behaviours to ultimately restrict their victim's freedom and deprive them of their autonomy.[171] The submission to the Taskforce by the Bar Association of Queensland observed that this amendment 'would address a situation where a woman commits violence or takes other extreme measures in response to being a victim of coercive control.'[172] This factor can also be considered in circumstances where a perpetrator manipulates a victim of coercive control, to commit a crime.

These amendments must take place prior to the implementation of the legislation in respect of coercive control. They should be included in the legislative package that is introduced and passed in 2022. Judicial officers and lawyers will be affected by this legislative amendment. Consultation should take place on a draft Bill with key stakeholders.

Training should take place with lawyers and judicial officers before the amendments commence. This training should not be just focused on the legal aspects of the amendments but the nature of domestic and family violence. It is important that lawyers and judicial officers are astute in identifying both:

- those victims of coercive control who have reacted to long term abuse with a single incidence of retaliatory violence or who have been coerced into committing a crime
- manipulative perpetrators of coercive control who falsely attempt to portray themselves as victims

Human rights considerations

The human rights under the Human Rights Act that are potentially engaged and promoted by this is the right to recognition and equality before the law. The Bar Association of Queensland submission noted that

'[e]ven though this would apply only to certain individuals, it operates as a measure recognised under the HR Act, s 15(5), taken for the purpose of assisting or advancing persons or groups of persons disadvantaged because of discrimination. It would not affect others' human rights.'[173]

This recommendation is not expected to limit any human rights under the Human Rights Act and will promote the human right of protecting families and children.

Evaluation

It is intended that this recommendation will result in sentencing courts in Queensland more routinely having regard to whether an offender's criminal behaviour is attributable to the offender being a victim of domestic and family violence including coercive control.

Agencies should ensure data and information is collected in an extractable form before the commencement of the amendments to inform its review.

The review of the operation of the amendments should commence as soon as possible five years from its commencement to ensure they are operating as intended.

The review of the operation of the amendments should consider the impact and outcomes for victims including in relation to their safety.

Domestic and family violence bench books

In chapter 1.5 of the report we noted that the Taskforce received several submissions calling for programs or risk assessment tools to help magistrates to determine the person most in need of protection.[174]. We also noted that the Queensland Magistrates Court DFVP Act Benchbook does not offer the same sophisticated level of guidance that is provided in the Judicial College of Victoria's Family Violence Bench Book which contains extensive helpful guidance for judicial officers on family violence, including risk indicators for family violence and content to address myths about family violence.[175]

The DFVP Act Benchbook should be updated so that judicial officers have clear direction and guidance about risk factors and current information that counters myths about domestic and family violence. Most importantly it should specifically address the following matters:

- how to identify the person most in need of protection in the relationship
- the nature and impact of domestic and family violence including coercive control
- the patterned nature of domestic and family violence in the context of the relationship as a whole

The Taskforce also believes that the District and Supreme Courts of Queensland would also benefit from the creation of their own dedicated domestic and family violence benchbook to assist them in criminal proceedings that involve domestic and family violence. This should could include not only the information suggested to be added to the DFVP Act Benchbook, but also guidance on:

- sentencing matters involving domestic and family violence, including coercive control and domestic violence as a mitigating and aggravating feature on sentence
- sentencing options available
- evidential issues relevant to domestic and family violence and coercive control including section 132B of the Evidence Act and the admissibility of expert evidence
- jury directions relating to domestic and family violence

Recommendation 67

The Magistrates Court of Queensland consider reviewing and updating *the Domestic Violence and Family Protection Act 2012 Benchbook* to include:

- information about the nature and impact of domestic and family violence including coercive control
- emphasise that domestic and family violence is a pattern of behaviour over time in the context of the relationship as a whole
- provide guidance on how to identify the person most in need of protection in the relationship
- guidance on using plain English and trauma informed language
- content to address myths about family violence
- reflect the legislative amendments recommended by the Taskforce.

The revised Benchbook may be informed by the *Judicial College of Victoria's Family Violence Bench Book.*

Recommendation 68

The District and Supreme Courts of Queensland should consider preparing and keeping updated a domestic and family violence bench book, relevant to the work of each court, that includes:

- information about the nature and impact of domestic and family violence including coercive control
- emphasise that domestic and family violence is a pattern of behaviour over time in the context of the relationship as a whole
- provide guidance on how to identify the person most in need of protection in the relationship
- guidance on using plain English and trauma informed language
- content to address myths about family violence
- reflect the legislative amendments recommended by the Taskforce

The bench book may be informed by the Judicial College of Victoria's Family Violence Bench Book.

Implementation

Ideally the Taskforce would like to see the new Judicial Commission which the Taskforce has recommended (recommendation 3) take ongoing responsibility for the maintenance of the DFVP Act Benchbook and the creation and maintenance of the new Benchbook for the District and Supreme Courts.

However, the Taskforce acknowledges that if its recommendation to establish a Judicial Commission is accepted the process of establishing the commission may take some time.

The Taskforce recommends that DJAG ask the Chief Magistrate to consider updating the DFVP Act Benchbook to reflect the delivery of any relevant recommendations in this report as soon as possible. DJAG should also ask the Chief Justice and the Chief Judge to consider having a new Benchbook prepared for the District and Supreme Courts, as soon as possible but at the latest, before the commencement of any new coercive control offence in 2024 (recommendation 78).

Evaluation

Heads of jurisdiction or any new judicial commission should review and update the benchbooks annually to ensure they remain current and reflect contemporary research and evidence.

Prosecution guidelines

The ODPP Queensland have publicly accessible 'Director's Guidelines'. The guidelines are to all staff of the ODPP, others acting on behalf of the ODPP and to police pursuant to section 11(1)(a)(i) of the *Director of Public Prosecutions Act 1984*.[176] The guidelines state that '[t]hey are designed to assist the exercise of prosecutorial decisions to achieve consistency and efficiency, effectiveness and transparency in the administration of criminal justice.'[177] The version of the guidelines are dated as at 30 June 2016 and state that they are currently under review. The Director's Guidelines do not contain guidelines and procedures in relation to domestic violence related offences.[178]

Recommendation 69

The Director of Public Prosecutions review and finalise the draft domestic and family violence guidelines to ensure they recognise and respond to all forms of domestic and family violence as a pattern of behaviour over time and within the context of a relationship as a whole and align with the legislative reforms progressed as a result of this report.

The Queensland domestic and family violence guidelines will be modelled on the Crown Prosecution Service legal guidance on 'Domestic Abuse' and 'Coercive or Controlling Behaviour in Intimate or Family Relationship' from the United Kingdom.

The prosecution guidelines will be evidence based and trauma informed, incorporating an intersectional approach. The guidelines should include protections and safeguards for victims who wish to withdraw a domestic and family violence related complaint to ensure they are not doing so as a result of fear or intimidation from the perpetrator.

The Director of Public Prosecutions will also update the Director's Guidelines to incorporate changes to the law recommended in this report.

The Office of the Director of Public Prosecutions will work with police prosecutors across Queensland to implement the revised guidelines with appropriate adaption including providing training.

Implementation

It is important for the publicly accessible Director's Guidelines to include guidelines and procedures about domestic violence related offences given that they are directed not only to staff, but to those acting on behalf of the ODPP and police. Consideration should be given to developing detailed legal

guidance for staff regarding the prosecution of domestic and family violence matters. It is suggested that these guidelines be modelled on the Crown Prosecution Service legal guidance on 'Domestic Abuse' and 'Coercive or Controlling Behaviour in an Intimate or Family Relationship' for England and Wales.[179]

Human rights considerations

This recommendation is not expected to limit any human rights under the Human Rights Act.

Evaluation

The guidelines should be reviewed regularly, no more than five years after the previous review to ensure they remain relevant and up to date and reflect contemporary research and evidence. The review should take into consideration the impacts and outcomes for victims of domestic and family violence and their safety as well as whether the guidelines have assisted to promote better prosecution practices by both the ODPP and the PPC.

National family law reform

In chapter 1.5 the Taskforce found that perpetrators are using the family law system to continue to perpetuate abuse, undermining efforts by states and territories to protect victims, keep them safe and hold perpetrators to account.

The Taskforce has found that community misconceptions, including within the legal and report writer communities, about the presumption of shared parental responsibility in the *Family Law Act 1975* (Cth)[180] has resulted in victims believing that they have no choice but to offer or accept equal shared care arrangements, even where there is domestic violence and coercive control.[181] This exposes children to harm and forces victims to have more regular contact with perpetrators at regular change overs. This misconception often frequently results in victims of coercive control offering a shared care arrangements as part of a parenting agreement that is then registered with the court without judicial oversight. This can circumvent the court having sufficient oversight of whether the arrangements are in fact in the best interests of the children taking into consideration the presence of domestic and family violence and coercive control.

Shared care arrangements mean the child lives in both homes and both parents maintain shared parental responsibility for the child. As a result of these arrangements perpetrators are able to maintain power and control over their victims. While this issue was identified by the ALRC in 2018 and recommendations made and agreed to in part or in principle by the Australian Government, [182] the misinterpretation of the provisions continue. The misunderstanding is allowing perpetrators to continue their violence against victims and is a significant barrier to victims of coercive control leaving abusive relationships and seeking help to be safe.

The Taskforce has heard that women who attempt to withhold a child from contact with their abusive father are often accused of parental alienation within the family law system. In some cases victims have been forced to return to court and to facilitate the child's contact with the perpetrator.[183] The Taskforce heard concerns that a victim who withholds her children from a perpetrator due to fears for the children's safety, could have a complaint made to police that her protective behaviours are in fact coercive control against him.[184] The action of a victim attempting to protect a child from harm should not be able to be used as evidence of parental alienation.

The Taskforce received significant feedback about the impact of these issues. The failings within the family law system to protect victims of domestic and family violence including coercive control and their children and to hold perpetrators accountable are a critical barrier to victim safety. The impacts

of theses failures risks undermining any measures put in place by state and territory governments to address coercive control and should be dealt with by the Federal Government as a matter of urgency.

Responsibility for policy and legislation relating to the family law system are matters for the Federal Government. The Taskforce urges the Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence to advocate for reforms to the family law system to be a national priority and a primary focus in the next national plan to reduce violence against women and their children.

Recommendation 70

The Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence advocate nationally through the Meeting of Attorneys-General, for national reform to the family law system including for:

- the Federal Circuit and Family Court of Australia to implement and embed an understanding and approach to domestic and family violence that recognises and responds to patterned behaviour over time in the context of the relationship as a whole
- the implementation of a risk assessment approach that includes the consideration of the risk of safety and harm for the victim and of a perpetrator continuing to use violence that is evidence based and preferably aligned to those used by states and territories
- the Federal Government to progress amendments to the *Family Law Act 1975* (Cth) to make clear that the presumption of shared parental responsibility does not mean equal shared care of a child
- the Federal Government progress amendments to the *Family Law Act 1975* (Cth) to make clear that a victim of domestic and family violence acting to protect a child from exposure to domestic and family violence or other harm cannot be used as evidence that the victim is alienating the child from the other parent.

Implementation

These issues could be raised through the Meeting of Attorneys-General (MAG). The MAG is a body comprised Attorneys-General from the Australian Government, all states and territories and the New Zealand Minister for Justice. One of its purposes is to implement a national and trans-Tasman focus on maintaining and promoting best practice in law reform including in family violence.[185] These issues should also be raised at the Women's Safety Taskforce for national reform to the family law system, a national ministerial group who come together primarily to develop the next National Plan to Reduce Violence against Women and their Children 2010-2022.[186] The Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence is a member of both of these groups.

Human rights considerations

This recommendation is not expected to limit any human rights under the *Human Rights Act*.

Further review of legislation during this term of Government

Defences and excuses including the partial defence of provocation

As discussed in chapter 1.6, option 9 in the Taskforce's first discussion paper which proposed a specific defence of coercive control in the Criminal Code received support from several submissions and also prompted a wider discussion amongst submitters about the fundamental structure of the defences and excuses in Queensland's Criminal Code.

The submission from Griffith University and Charles Darwin University pointed the Taskforce to the significant reform Western Australia (another Criminal Code jurisdiction) undertook in this area in 2008.[187] The Taskforce acknowledges that in 2008 Queensland undertook its own review, the Queensland Law Reform Commission's (QLRC) report *'A review of the excuse of accident and the defence of provocation'* which was tabled in Parliament on 1 October 2008 recommended several reforms aimed at ensuring that defence and excuses were applied to matters involving domestic and family violence in a way that was more consistent with community expectations. These recommendations were largely implemented by the *Criminal Code and Other Legislation Amendment Act 2011* (the 2011 Amendment Act).

One of the reforms introduced in the 2011 Amendment Act was the introduction of the new defence of killing in an abusive relationship undersection 304B Criminal Code. In chapter 1.5, we noted that there are no reported cases where a jury found an accused person guilty of manslaughter only and not guilty of murder on the basis of section 304B.[188] It may be, however, that section 304B is used when defence lawyers and prosecutors negotiate pleas of guilty to manslaughter in cases where murder was originally charged.

Another reform contained in the 2011 Amendment Act was an amendment to the partial defence of provocation to reduce the scope of the defence available to those who kill out of sexual possessiveness or jealousy'.[189] In chapter 1.6 we highlighted the recent killing of Sandra Peniamina, whose husband accused her of having a sexual relationship with someone else. Sandra's husband nevertheless used the partial defence of provocation by successfully arguing that when Sandra defended herself from his violence during a confrontation about her alleged infidelity this could be an act of provocation. He wase found guilty of manslaughter and not murder on this basis. For some members of the public, this was an unattractive result given her husband stabbed her more than 20 times, chased her and hunted her from a hiding place before finally killing her by hitting her over the head with a concrete bollard that he had ripped out of a garden bed.[190]

By contrast, the decision of *R v Falls*[191] has been identified as a case which illustrates the difficulties battered women have with raising self-defence, particularly 'where a physical attack is not actually in progress or "imminent".'[192]

It is apparent to the Taskforce that the presently available defences and excuses do not reflect current knowledge about the effects of domestic and family violence and coercive control and the damaging impact these have on victims over time.

As noted in chapter 1.6, the Taskforce could not fairly consider amendments to the partial defence of provocation without a thorough examination of the mandatory minimum sentence of life imprisonment for murder in the Criminal Code which does not exist in many other Australian jurisdictions. Queensland's mandatory life imprisonment for murder is consistently cited as the reason why Queensland should retain the defence of provocation. Reform of the mandatory minimum sentence of life imprisonment for murder and of defences and excuses under the Criminal Code will impact cases far beyond coercive control and domestic and family violence.

A proper consideration of these matters requires a broader framework than this Taskforce's gendered terms of reference. Nor does the Taskforce have the time or resources to conduct this important review.

There is an urgent need for an independent review of defences and excuses in the Criminal Code, including their operation in relation to homicide.

Recommendation 71
The Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence refer for independent review the defences and excuses in the Criminal Code, including their operation in relation to homicide. Consideration should be given to making a reference to the Queensland Law Reform Commission. In particular, the review should consider the following provisions: - Provocation: section 304; sections 268 and 269 - Self-defence: section 271 and section 272 - Killing for preservation in an abusive domestic relationship: section 304B The independent review will assess the adequacy of existing laws and whether amendments to or the repeal of provisions is required. It should also consider changes to laws, practices and procedures including: - to clarify and simplify the defence of self-defence - whether the defence of self-defence should be expanded to cover circumstances when a victim of domestic and family violence including coercive control acts reasonably to protect themselves from a perpetrator - whether the defence of provocation should be repealed - the mandatory penalty for a conviction for murder, its impact on the operation of defences and excuses, and whether it should be removed. The independent review should propose any changes to laws, practices and procedures resulting from its review. Those undertaking the review should include people with specialist expertise in relation to domestic and family violence. The independent review will take into consideration and be informed by: - the findings and recommendations of the Taskforce - the views and perspectives of legal, domestic and family violence and Aboriginal and Torres Strait Islander stakeholders, and of people with lived experience of domestic and family violence - the nature and impacts of domestic and family violence and - the need to appropriately balance the interests of victims and accused persons where those interests compete.

Implementation

This review could be undertaken by the Queensland Law Reform Commission (QLRC) or another appropriately constituted independent review body.

The function of the Queensland Law Reform Commission is to keep under review the law applicable to Queensland with a view to its systematic development and reform.[193] A Commission must consist of at least 3 members,[194] each of which shall be suitability qualified by holding a judicial office by experience as a barrister, solicitor or academic.[195] The Taskforce firmly believes that should the QLRC be selected to conduct this review its membership should be extended beyond lawyers and academics to include experts from the community with specialist expertise in domestic and family violence. The Taskforce notes that in submissions received on option 9 in our first discussion paper the view from the legal professional bodies was that there was little need for reform in this area and this contrasted with views from within the domestic and family violence sector as well as academics. It will be very important that whichever body conducts the review that it draws on both legal expertise but also expertise about domestic and family violence.

The Taskforce considers that the terms of reference should explicitly require the reviewing body to consider

- whether the defence of self-defence should be expanded to cover circumstances when a victim of domestic and family violence including coercive control acts reasonably to protect themselves from a perpetrator
- whether the defence of provocation should be repealed
- the mandatory penalty for a conviction for murder, its impact on the operation of defences and excuses, and whether it should be removed.

The terms of reference for the review should require consultation with people with lived experience of domestic and family violence including victims and Aboriginal and Torres Strait Islander peoples with lived experience of domestic and family violence.

The Taskforce would expect that reviewing body would be asked to provide an analysis of whether its recommendations were compatible with the Human Rights Act and this would include balancing the rights of an accused person and victims.

Human rights considerations

This recommendation is not expected to limit any human rights under the Human Rights Act. Human rights issues are likely to be raised during the review and should be considered by the review body as part of its work.

The operation of the *Dangerous Prisoners (Sexual Offenders) Act 2003*

As discussed in chapter 1.6, there may be a need for post-sentence custody options and supervision for the worst dangerous violent offenders in Queensland that is not limited to domestic and family violence related offending. It is acknowledged that Queensland is becoming increasingly isolated in its approach to dangerous offenders with all other Australian states (but not territories) providing for schemes that are not restricted to dangerous sexual offenders and include dangerous violent offenders. However, the Taskforce held concerns about how the current Queensland scheme operates under the *Dangerous Prisoners Sexual Offenders Act 2003* (DPSO Act).

The current number of DPSO Act orders far exceeds the original intended numbers at considerable cost to the community without any commensurate assurance the community is now safer. Since the enactment of the scheme in 2003, it has had only one internal review. There is very little public information available about the overall operation of the scheme. Data provided to the Taskforce by Queensland Corrective Services that is discussed in chapter 1.6 indicates that Aboriginal and Torres Strait Islander peoples and people with disability are significantly overrepresented in the scheme.

These issues need to be examined and addressed before the scheme could be expanded. While the Taskforce considered an expansion of the current scheme to dangerous domestic violence offenders it was felt that a review of the DPSO Act scheme is first warranted to consider the effectiveness in protecting the community from the most dangerous offenders under this scheme and the scheme's financial sustainability. The review should also consider whether the scheme should be expanded to dangerous violent offenders generally rather than dangerous domestic and family violence offenders in particular.

The Taskforce is of the view that the cost and efficacy of the current scheme and the financial sustainability of both continuing the current scheme or expanding it are critical issues to examine in coming to a well-informed recommendation. The Taskforce does not have the requisite expertise, capability or the time to conduct such a review.

Also similar to the issues surrounding defences and excuses, if the DPSO Act was widened to apply to serious violent offenders as it has been in other Australian states this would include offenders convicted of offences that are not domestic violence offences committed against women and girls taking this issue well beyond the Taskforce's limited terms of reference.

Recommendation 72

The Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence invite the Legal Affairs and Safety Committee to consider reviewing and investigating, the operation of the *Dangerous Prisoners (Sexual Offenders) Act 2003*.

The review and investigation could examine the effectiveness of the operation of the current scheme and whether it should be expanded to dangerous violent offenders.

Implementation

The Taskforce has recommended that consideration be given to the review and investigation of the DPSO Act being conducted by the Legal Affairs and Safety Committee, one of Queensland's 11 parliamentary committees set up to assist the Queensland Parliament to operate more effectively. The Legal Affairs and Safety Committee (LASC) is currently completing an 'Inquiry into Serious Vilification and Hate Crimes', due to be reported on by 30 January 2022. The Taskforce notes that this has involved regional consultation around Queensland which the Taskforce believes would be highly desirable for a review of the DPSO Act.

The Taskforce considered two other possible bodies for this review: the Queensland Law Reform Commission (the QLRC) and the Queensland Sentencing Advisory Council (the QSAC).

The QLRC is an independent statutory body that could conduct the review. However, the Taskforce considers the LASC to be more appropriate as the Taskforce considers it is critical that consideration be given to both the financial viability of the present scheme and the financial sustainability of expanding the DPSO Act. This may extend beyond the Queensland Law Reform Commission's key statutory duties which focus on law reform.[196]

The QSAC conducts reviews about sentencing in Queensland through research and publications. The functions of the council are restricted to sentencing.[197] Given that the DPSO Act operates as a post-sentence order, the council does not seem to be suitable to conduct this review.

The Taskforce recommends the LASC consider examining whether the current DPSO Act scheme is:

- improving community safety
- financially viable and sustainable with the growth of prisoner numbers at current levels
- operating in a way that effectively discriminates against Aboriginal and Torres Strait Islander peoples and/or people with disability
- is compatible with the Human Rights Act

The Taskforce believes that a close analysis of these issues would provide a solid foundation for the LASC to then consider whether it is appropriate to extend the scheme to serious violent offenders.

Human rights considerations

This recommendation is not expected to limit any human rights under the Human Rights Act. Human rights issues are likely to be raised during the review undertaken to implement the recommendation and should be considered by the review body.

Sentencing practices for domestic and family violence related offences

As discussed in chapter 1.6, in 2021, the QSAC conducted a study which explored whether there is a difference in sentencing outcomes for convictions for offences of common assault and assault occasioning bodily harm when sentenced as domestic violence offences under the Penalties and Sentences Act, compared to cases that are not.[198] The study recommended that further research be conducted about whether this sentencing trend was as a result of the insertion of section 9(10A) into the Penalties and Sentences Act. Section 9(10A) which states that the court must treat the fact that the offence is a domestic violence offence as an aggravating factor, unless the court considers it not reasonable as a result of the exceptional circumstances of the case.[199]

Recommendation 73

The Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence ask the Queensland Sentencing Advisory Council to give advice on the impact of the operation of the aggravating factor in section 9(10A) of the *Penalties and Sentences Act 1992* on sentencing outcomes for domestic violence related offences beyond outcomes for cases involving charges of assault and assault occasioning bodily harm.

- This will build upon the work already undertaken by QSAC in its research brief entitled 'The impact of domestic violence as an aggravating factor on sentence' that was released in May 2021.
- This further work should include consideration of the impact of the aggravating factor on sentencing outcomes for charges involving all forms of domestic and family violence including non-physical violence and coercive control.

Implementation

The operation of the aggravating factor in section 9(10A) of the Penalties and Sentences Act extends to offences beyond assault and assault occasioning bodily harm. In chapter 1.1 we learned that perpetrators use a range of strategies to coerce and control victims including physical and non-physical forms of violence and abuse. Non-physical forms of violence and abuse includes emotional and psychological harm; financial and economic abuse; acts of deprivation and degradation; and stalking, monitoring and surveillance. Therefore, it is recommended that research be conducted into the impact of the aggravating factor of domestic violence on sentencing outcomes for offences involving all forms of domestic and family violence, in particular conduct which constitutes coercive control. If QSAC finds there are differences found in the application of the aggravating factor for offences involving non-physical violence QSAC should provide advice to the government about how that should be addressed and corrected.

Human rights considerations

This recommendation is not expected to limit any human rights under the Human Rights Act. Human rights issues are likely to be raised during the review and should be considered by the QSAC.

Conclusion

This chapter considered the legislative amendments required to strengthen Queensland's current response to coercive control. It is recommended that a number of amendments be made to Queensland legislation including the Criminal Code; DFVP Act; Evidence Act; and the Penalties and Sentences Act. Alongside the legislative changes, the implementation of guidelines and procedures for key stakeholders including ODPP officers working in the Supreme, District and Magistrates Courts of Queensland is required. Judicial officers should also be aware of these changes. Additionally, there is a need for further review of legislation and system reform. Research about the operation of domestic and family violence related offences is also recommended. All of the amendments to legislation contained in this chapter are recommended for introduction in 2022 with a delayed commencement (subject to passage) in 2023 to allow for training and data collection practices to be put in place.

References

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[3] Marilyn McMahon, Paul McGorrery and Kelly Burton 'An Alternative Means of Prosecute Non-Physical Domestic Abuse: Are Stalking Laws an Under-Utilised Resource?' in Marilyn McMahon and Paul McGorrery (eds) *Criminalising Coercive Control: Family Violence and the Criminal Law* (Springer, 2020), 93, 106.

[4] Marilyn McMahon, Paul McGorrery and Kelly Burton 'An Alternative Means of Prosecute Non-Physical Domestic Abuse: Are Stalking Laws an Under-Utilised Resource?' in Marilyn McMahon and Paul McGorrery (eds) *Criminalising Coercive Control: Family Violence and the Criminal Law* (Springer, 2020), 93, 95.

[5] *Protection from Harassment Act 1997* (Scotland) s 8A; Marilyn McMahon, Paul McGorrery and Kelly Burton 'An Alternative Means of Prosecute Non-Physical Domestic Abuse: Are Stalking Laws an Under-Utilised Resource?' in Marilyn McMahon and Paul McGorrery (eds) *Criminalising Coercive Control: Family Violence and the Criminal Law* (Springer, 2020), 93, 95.

[6] Lord Mackay of Clashfern, then Lord Chancellor, HL Deb 24 January 1997 c917. Background is in Library Research paper 96/115, Stalking, harassment and intimidation and the Protection from Harassment Bill, 13 December 1996.

[7] Domestic and Family Violence Protection Act 2012 (Qld) s 8(2)(h).

[8] Domestic and Family Violence Act (NT) s 5(d).

[9] Family Violence Act 2004 (Tas) s 7(a)(iv).

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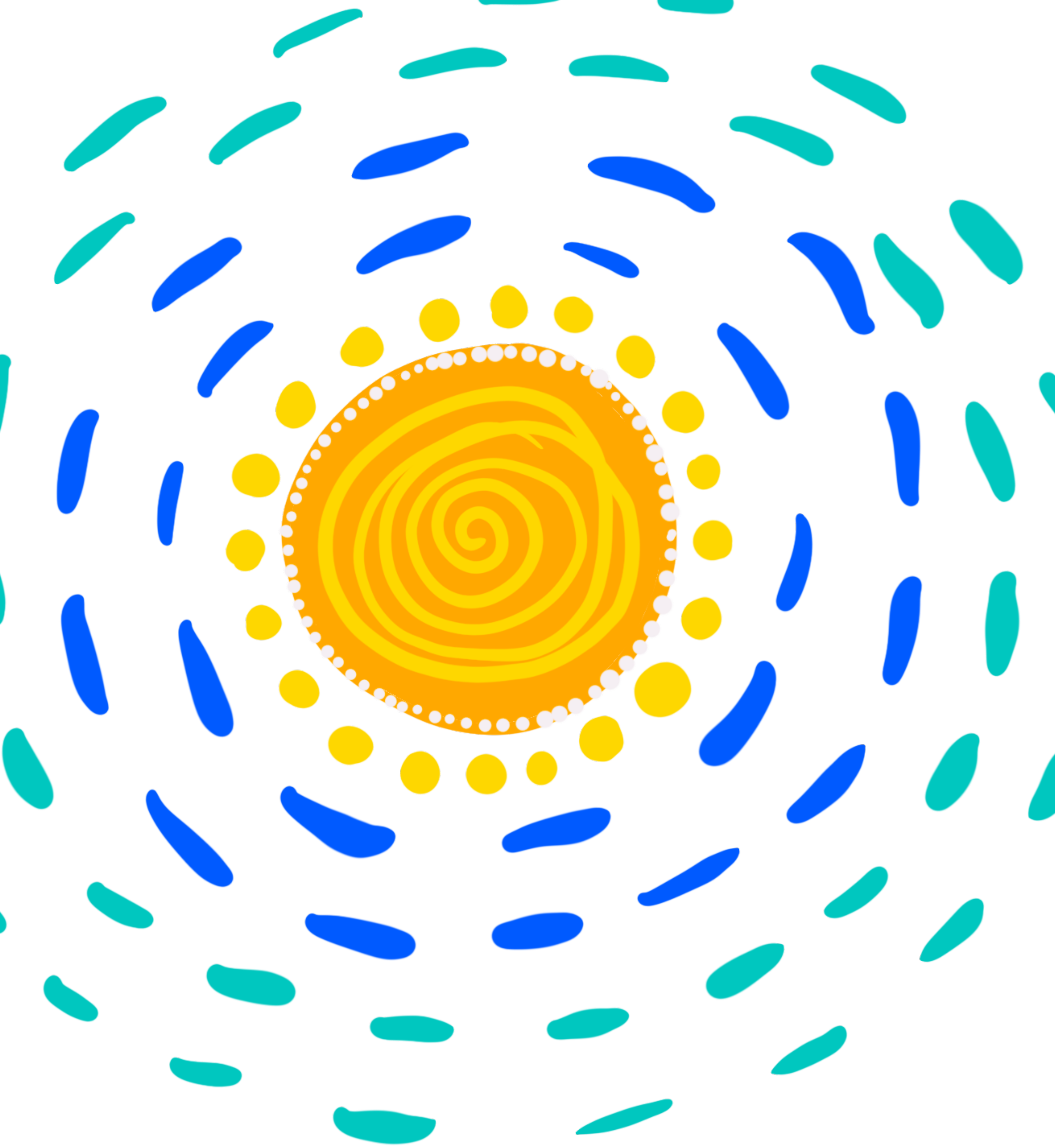

Chapter 3.9

Legislating against coercive control

The Taskforce recommends a new package of legislative initiatives to address coercive control for commencement in 2024. The initiatives in this legislative package target the final stage of reform in the Taskforce's four-phase plan to address domestic and family violence and coercive control outlined in chapter 2.3.

This chapter includes legislative reform intended to divert perpetrators and stop people who facilitate domestic violence on their behalf. This is intended to provide an opportunity for intervention before a perpetrator's behaviour escalates to more dangerous levels.

The new coercive control offence will fill a gap in Queensland's criminal law that will hold perpetrators to account for the full spectrum of violence suffered by their victims.

The post-conviction supervision and rehabilitation order and a register of serious recidivist domestic and family violence offenders will keep victims safe by having more eyes on perpetrators while helping those perpetrators heal and return safely to the community.

'You need to make domestic violence a criminal offence from the first time an act of any violence occurs & magistrates can't simply dismiss.' [1]

Amendments to the *Domestic and Family Violence Protection Act 2012*

Intervening early to divert perpetrators and enhance community safety

As noted in chapter 1.6, in their submission to the Taskforce, the Queensland Police Service (QPS) highlighted that there is currently 'no mandatory diversion option for a perpetrator to require early intervention in the domestic and family violence cycle to support perpetrators in recognising their inappropriate behaviour, learn strategies to change their behaviour and reduce incidences of reoffending.'[2] The QPS went on to suggest a diversion scheme similar to the drug diversion scheme. While the Taskforce notes the marked difference between domestic and family violence and drug offending particularly in terms of the risk of harm, the Taskforce does consider that there is merit in engaging perpetrators in mandatory intervention programs at an earlier stage. As discussed in chapter 1.5, while 75% of respondents never breach their Domestic Violence Order, for the 25% who do, over half go on to breach repeatedly.[3] The safety and security of victims experiencing repeated breaching is greatly compromised. The Taskforce believes there is room for a diversion scheme in this space empowering the courts to move perpetrators into mandatory intervention programs earlier, before their abuse escalates and they breach again.

It has been suggested that perpetrator intervention programs that are utilised as part of the criminal justice response to domestic and family violence are most effective when:

- the court orders the perpetrator to attend the program at any early stage in the proceedings (that is, shortly after arrest);
- compliance with the program requirements is monitored by the court; and
- the court responds quickly to non-compliance.[4]

Aboriginal and Torres Strait Islander peoples are significantly overrepresented in statistics for breaches of Domestic Violence Orders.[5] It is intended that the creation and implementation of a diversion scheme will help to reduce this overrepresentation and keep the victims in these communities safe. Any diversion scheme must be culturally appropriate so as to best engage with Aboriginal and Torres Strait Islander peoples. This need for cultural appropriateness also applies to peoples from Culturally and Linguistically Diverse (CALD) communities.

The Taskforce acknowledges that a diversion scheme has some risks that will need to be managed, including that:

- perpetrators may construe being ordered to undertake intervention rather than receiving a penalty as meaning that their breach is less serious than if it was being dealt with in a court
- victims may be coerced into supporting their perpetrator entering diversion
- ongoing assessment of victim safety and risk and careful safety planning, services and support will be required to keep victims safe (chapter 3.3)
- a scheme will require increased access and availability of perpetrator intervention programs coupled with victim support and advocacy (chapter 3.4) to ensure its success
- the need to urgently address the misconception across the criminal justice system that non-physical violence is less serious than physical violence and to better recognise and respond to patterns of violence over time in the context of the relationship as a whole.

Despite the risks, on balance, the Taskforce is of the view that provided the scheme is carefully crafted to maximise the opportunity of earlier intervention and to minimise risk of further harm to victims, the potential benefits outweigh the risks.

As discussed in chapter 1.6, the Taskforce has heard from victims and those who support them that breaches often go unreported, are not investigated or charged by police or are undercharged, for example by combining multiple breaches into one offence. A diversion scheme will challenge police to tackle breaches head-on at the time that a perpetrator first breaches an order.

While the Taskforce acknowledges that the establishment of a diversion scheme and sentencing option will be costly, it is unacceptable to have domestic and family violence continue to escalate purely because the cost of earlier intervention is perceived to be too high. The scale of a problem should not be a reason not to act on it. The cost of domestic violence to victims is enormous, as is the cost to the community and the justice system.[6] The further a perpetrator progresses through the justice system without diversion, the more they cost the community, particularly if they are incarcerated. Research shows that over 40% of Queensland offenders have returned to prison within two years at a cost of $207 per day for confinement alone.[7] If early intervention works it will be hugely cost effective.

Recommendation 74

The Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence progress an amendment to the *Domestic and Family Violence Protection Act 2012* to create a new court based domestic violence perpetrator diversion scheme that applies in circumstances when:

- the accused person admits the conduct alleged to constitute the breach of the Domestic Violence Order
- the accused person has not previously breached a Domestic Violence Order, including orders made against them involving other aggrieved persons and orders that may no longer be in place
- the accused person does not have previous convictions for offences involving domestic and family violence
- the behaviour that constituted the breach would not otherwise constitute an indictable offence, including the new offence of coercive control
- the court is satisfied that the accused person is suitable for participation in an intervention program, taking into consideration the views and wishes of any victim
- the court is satisfied there is an appropriate approved program under the *Domestic and Family Violence Protection Act 2012* in which the accused person can immediately commence participation
- The aim of the scheme is to divert perpetrators earlier in their offending to interventions that address their behaviour, hold them accountable and stop the violence in order to keep victims safe.

If the perpetrator fails to successfully complete the program, the breach offence will be returned to the court for prosecution, unless the perpetrator has earlier applied to the court for a variation or revocation of the diversion order. Failure to complete the diversion program will be able to be considered by a sentencing court as an aggravating factor if the perpetrator is convicted of a breach of a Domestic Violence Order or another domestic violence offence in the future.

Legislation to establish the new diversion scheme should be introduced into Parliament in 2023, following the implementation of essential service system reforms recommended by the Taskforce as part of this report. The Bill including the new diversion scheme should be released as a consultation draft for a period of at least three months before it is introduced into Parliament. This consultation should include legal, domestic and family violence, and Aboriginal and Torres Strait Islander stakeholders, and people with lived experience of domestic and family violence.

The new diversion scheme should commence, subject to passage of the Bill with any amendments, on a set date in 2024, that is, at least 15 months after debate and passage to enable implementation activities to be undertaken and sufficient services and supports to be in place before commencement.

Implementation

The Taskforce recommends the creation of a domestic violence perpetrator diversion scheme in the *Domestic Violence Family Protection Act 2012* (DFVP Act). The diversion scheme will divert the perpetrator away from the criminal justice response on the condition that the perpetrator agrees to participate and participates fully in a suitable behaviour change program.

The recommended diversion scheme addresses what the Taskforce has heard from many victims and those who support them, namely, that breaches are not being taken seriously[8], and that while some seek justice through criminal justice mechanisms, others do not want their partner to get into trouble and be punished, they just want them to get help so that the violence will stop.[9] The scheme is designed to triage behaviour and, where possible, to turn perpetrators away from a destructive path of abuse before this behaviour can further escalate.

The provisions for the scheme should be modelled, with necessary adaptions, on the existing provisions in the DFVP Act that enable the court to make an intervention order when making or varying a Domestic Violence Order. This includes the existing process for the assessment of the suitability of a person to participate and the approval of providers and intervention programs. The Department of Justice and Attorney-General has raised issues with the operationalisation of the approved provider and intervention programs in its submission to the Taskforce. These issues will need to be resolved before the commencement of the diversion scheme.[10]

The threshold eligibility requirements for entry into the scheme

The intention of the scheme is to capture only those perpetrators for whom this is the first breach of their first Domestic Violence Order. Because of the potential safety risk for victims, it is not intended to be available for breaches of Domestic Violence Orders that are also serious criminal offences, nor is it intended to be available to recidivist domestic violence offenders.

The Taskforce recommends that the scheme only apply to adult offenders. The Taskforce notes that in respect of children, there are diversionary measures including administering a caution instead of bringing the child before the court for an offence and alternative diversion programs contained in the *Youth Justice Act 1992*.[11]

The scheme should only apply to:

- perpetrators who have only ever been named as a respondent on one Domestic Violence Order against one aggrieved person
- perpetrators who have never breached the one Domestic Violence Order made against them before
- perpetrators who have no record of domestic violence offending of any kind on their criminal history
- perpetrators who express a willingness to engage in an intervention program and change their behaviour
- perpetrators who are assessed to be suitable to participate in an approved intervention program
- perpetrators who have made full legally binding admissions to the breach of the Domestic Violence Order
- a breach of a Domestic Violence Order that could not also be prosecuted as an indictable offence

Matters for the court to be to be satisfied of before making a diversion order

It is recommended that if a prosecutor is satisfied that a perpetrator is eligible and the perpetrator agrees to the making of an order, the prosecutor may seek to have the proceedings on the breach offence adjourned to enable the suitability of the perpetrator to participate in an approved program to be assessed before a diversion order is made.

It is recommended that the process to assess a preparator's suitability to participate in an approved intervention program should be modelled on existing provisions in the DFVP Act that enable the court to make an intervention order including section 72 (Assessment of suitability of respondent).

An approved provider must assess the perpetrator's suitability to participate in an approved intervention program taking into consideration matters similar to those outlined in section 72(2) of the DFVP Act. If the approved provider considers that the perpetrator is suitable to participate in an immediately available and appropriate approved intervention program, the approved provider must give the court a notice.

The legislation should provide that the court may make a diversion order if satisfied that the order is appropriate and desirable, taking into consideration:

- the informed and voluntary views and wishes of the victim, including the independence of those views; and
- the nature of the offending behaviour that constitutes the breach offence in the context of the relationship between the respondent (perpetrator) and the aggrieved (victim) as a whole; and
- the notice provided by an approved intervention program about the suitability of a perpetrator to immediately participate in an appropriate approved intervention program.

Effect of a diversion order

If the perpetrator successfully completes the intervention program, they will not be further dealt with for the breach of the Domestic Violence Order.

If the perpetrator does not complete the intervention program, or commits a further breach or other domestic violence offence during the duration of the diversion order, it is intended that they be brought back before the court and dealt with for the breach. The perpetrator's failure to complete the diversion order will be able to be considered in any future proceedings involving the perpetrator under the DFVP Act.

Timing

It is recommended that these amendments should be introduced into Parliament in 2023 and commence, subject to passage on a date set in 2024. Consultation should take place on a draft Bill containing the diversion scheme for a minimum of three months with legal stakeholders, specialist domestic and family violence workers and experts, Aboriginal and Torres Strait Islander stakeholders, people from culturally and linguistically diverse communities, people living with disability and those with lived experience of domestic and family violence. The diversion scheme should commence, subject to passage of the Bill, on a set date in 2024, that is, at least 15 months after debate and passage to enable implementation activities to be undertaken and sufficient services and supports to be in place before commencement.

During this time, the accessibility and availability of perpetrator intervention programs and the approval of appropriate programs to form part of the diversionary scheme will need to increase. This should occur as part of the development of a state-wide network of perpetrator intervention programs (chapter 3.4) and the implementation of the strategic investment plan (chapter 3.3).

Court and police record systems will need to be updated to ensure that information about compliance with the diversion program is accurately reported.

The QPS Operations Procedures Manual will need to be updated to reflect the involvement of police and police prosecutors with the diversion scheme.

Prosecutors, defence lawyers, police, court staff and court support workers will require training prior to the commencement of the new legislation to ensure that they understand how it is to operate and the implications of failure to complete programs. Judicial officers should consider undertaking professional development about the new diversion scheme.

The Chief Magistrate should consider updating the DFVP Benchbook to reflect the introduction of the scheme. The Chief Magistrate may also wish to consider issuing practice directions to assist police and lawyers to take steps that will assist a court assessing an application.

Human rights considerations

Rights promoted

The proposed amendments are aimed at reducing domestic violence. On that basis, the human rights promoted and protected under the *Human Rights Act 2019* (Human Rights Act) include the right to recognition and equality before the law (section 15), the right to life (section 16), the protection from torture and cruel, inhumane or degrading treatment (section 17), and the protection of families and children (section 26). The content of these rights and their applicability to coercive control and domestic and family violence have been discussed in chapters 2.1 and 3.8.

Rights limited

The human rights that are potentially engaged and limited are:

- Right to life[12]: the right that every person has to life and the right not to be arbitrarily deprived of life. There is an obligation on states to take positive steps to protect the lives of individuals. [13]
- Protection from torture and cruel, inhuman or degrading treatment[14]: a person must not be subjected to torture, treated or punished in a cruel, inhuman or degrading way.

These limitations arise from anticipated concerns that the diversion scheme will not adequately punish breaches of Domestic Violence Orders and will compromise the safety of victims by failing to treat breaches with the necessary degree of seriousness, by reflecting appropriate community denunciation of those who disregard orders and continue the abuse.

Limitations are justified

Section 13 of the Human Rights Act provides that '[a] human right may be subject under law only to reasonable limits that can be demonstrably justified in a free and democratic society based on human dignity, equality and freedom.'[15] Therefore, a human right can be limited under the act if the limits are reasonable, can be justified, and are also acceptable under international human rights law. The section outlines a number of factors that may be relevant when making this determination:

(a) the nature of the human right;

(b) the nature of the purpose of the limitation, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom;

(c) the relationship between the limitation and its purpose, including whether the limitation helps to achieve the purpose;

(d) whether there are any less restrictive and reasonably available ways to achieve the purpose;

(e) the importance of the purpose of the limitation;

(f) the importance of preserving the human right, taking into account the nature and extent of the limitation on the human right;

(g) the balance between the matters mentioned in paragraphs (e) and (f).[16]

In recommending the scheme, the Taskforce is particularly mindful of the risk to victim safety if the breach of a Domestic Violence Order is not treated with a proper degree of seriousness and that this raises an argument it limits the rights of victims and their children to life, as well as their rights not to be subjected to torture and cruel, inhuman or degrading treatment.

The Taskforce considers that these limitations will be reduced provided that, as recommended above, the views of the victims are considered prior to referral and only a limited cohort of perpetrators are eligible for referral, namely those with no domestic violence history who have only been named as a respondent on one order against one aggrieved and have never breached an order before.

The Taskforce considers that the limitations placed on human rights by a diversion scheme would be able to be reasonably and demonstrably justified on the basis that the legitimate purpose is:

- to stop the cycle of abuse at the time of the first breach, before it further escalates and in turn provide greater protection for victims and their children from coercive and controlling behaviour; and
- to promote family wellbeing and greater safety to the community as a whole as the perpetrator is rehabilitated to become a better, safer partner and parent and a more valuable member of the wider community.

Evaluation

The program is intended to keep victims safe by holding perpetrators accountable to stop the violence. Following the making of an order by the court, it will provide an enforceable opportunity for a perpetrator to take responsibility and change their behaviour.

The review of the operation of the amendments to establish the diversionary scheme should commence as soon as possible five years from their commencement to ensure they are operating as intended.

Agencies should ensure data and information is collected in an extractable form before the commencement of the amendments to inform this review.

Given the diversionary scheme is new and carries risks identified earlier in this chapter, the impacts and outcomes achieved should also be independently evaluated. The evaluation of the scheme should have a primary focus on the outcomes achieved in terms of keeping victims safe and holding perpetrators accountable to stop the violence. The evaluation should take into consideration access to victim supports and perpetrator intervention programs.

New facilitation offence

As discussed in chapters 1.6 and 3.8, the Taskforce has heard stories about friends and family of perpetrators pressuring victims to have contact with perpetrators and on some occasions intimidating, berating and abusing victims on behalf of perpetrators, including when a Domestic Violence Order is in place. We have also been told of perpetrators hiring private investigators to follow and monitor victims despite there being a Domestic Violence Order in place.

Under the DFVP Act only conduct undertaken by a respondent to a Domestic Violence Order, as the person against whom the order is made, can breach the order and be prosecuted for that breach. Third parties, including private investigators and family and friends of perpetrators, should not be

permitted to knowingly continue abuse against victims on behalf of perpetrators without being held to account.

The Taskforce is recommending the creation of a facilitation offence in the DFVP Act to address what victims have told the Taskforce about their distress at being subjected to abuse not only by their perpetrator, but also by the family and friends of the perpetrator and others hired to locate and monitor them.[17] The recommended amendments will help to keep victims safe by holding those who perpetuate domestic abuse on behalf of others accountable.

Currently, there are private investigators who advertise in a way which suggests that they will undertake surveillance work for a person because that person is unable to do it themselves without breaching a Domestic Violence Order.[18]

Recommendation 75

The Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence progress amendments to the *Domestic and Family Violence Protection Act 2012* to introduce a new facilitation offence to stop a person facilitating domestic abuse on behalf of a perpetrator against a person named as an aggrieved in a Domestic Violence Order, with a circumstance of aggravation if it is for reward.

Legislation to establish the new facilitation offence should be introduced into Parliament in 2023, following the implementation of community awareness raising activities to ensure family and community members understand that knowingly engaging in this behaviour is a criminal offence.

The Bill including the new offence should be released as a consultation draft for a period of at least three months before it is introduced into Parliament. This consultation should include legal, domestic and family violence, and Aboriginal and Torres Strait Islander stakeholders, and people with lived experience of domestic and family violence, noting that the Taskforce did not specifically include this as an option for feedback as part of its first discussion paper.

The new facilitation offence should commence, subject to passage of the Bill with any amendments, on a set date in 2024, that is, at least 15 months after debate and passage to enable implementation activities to be undertaken.

Recommendation 76

The Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence progress amendments to the *Domestic and Family Violence Protection Act 2012* to require a court making a Domestic Violence Order to impose an additional standard condition that the perpetrator must not counsel or procure someone else to engage in behaviour that if engaged in by the perpetrator would be domestic violence.

This amendment will reflect that this conduct is domestic violence as defined in section 8(3) of the Act and must not be undertaken as a condition of an order.

Recommendation 77

The Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence progress amendments to the *Security Providers Act 1993* to include a conviction for the new facilitation offence in the *Domestic and Family Violence Protection Act 2012* (recommendation 75) as a 'disqualifying offence' for a private investigator's licence.

This amendment should commence at the same time as amendments to create the new facilitation offence.

Implementation

New facilitation offence in the Domestic and Family Violence Protection Act

The Taskforce recommends that a new 'facilitation of domestic violence' offence should be created in Part 7 of the DFVP Act. The new offence should provide that:

- A person commits a misdemeanour if without reasonable excuse they:
    - Participate in domestic violence against another person on behalf of a respondent to a Domestic Violence Order; and
    - The person knew or ought reasonably to have known that the other person was named as an aggrieved on a Domestic Violence Order

Participate should be defined as meaning enable, aid or facilitate.

Domestic violence for the purpose of the offence should be defined in accordance with section 8 of the DFVP Act. There should be a clarifying subsection that provides that a person can be taken to act on behalf of a respondent even if they act independently on the respondent's behalf without the encouragement or direction of the respondent.

It is recommended that the offence be structured so that the elements of the offence that the prosecution must prove beyond reasonable doubt are:

- The person participated (definition above) in behaviour that if done by the respondent to the Domestic Violence Order would constitute domestic violence against the aggrieved i.e., engaged in behaviour towards and aggrieved that was:
    - Physically or sexually abusive
    - Emotionally or psychologically abusive
    - Economically abusive
    - Threatening
    - Coercive
    - Controls or dominates the other person and causes the other person to fear for the other person's safety or well-being of that of someone else
- The person who participated in the domestic violence was motivated to act because of their relationship with the respondent to the Domestic Violence Order
- The person knew (subjective knowledge) or ought reasonably to have known (constructive knowledge) that the other person was an aggrieved on a Domestic Violence Order
- It is immaterial whether a respondent to a Domestic Violence Order is aware that the other person participated in conduct that constituted domestic violence

A negative that the defendant must raise, but then must be disproved beyond reasonable doubt by the prosecution is:

- That the person had a reasonable excuse

Existing defences in the Criminal Code should also be available including Justification and excuse (section 31) that includes duress; and Mistake of fact (section 24).

It is not intended that the prosecution be required to prove that a person knew that their conduct amounted to enabling, aiding or facilitating domestic violence on behalf of a person. The requirement that a person knows or ought reasonably know about the existence of a Domestic Violence Order ensures that members of the community accept responsibility for their behaviour once they become aware that there is an order in place. This places a positive responsibility on members of the community to not engage in any behaviour which would constitute domestic violence if it was committed by the perpetrator who is the subject of an order. The creation of this offence will provide further education to the public about how domestic and family violence is not a private matter which should be dealt with behind closed doors. Instead, it sends a message to the community that they have a responsibility to act in a way which does not assist in perpetuating domestic violence.

The Taskforce recommends that the offence should be an indictable offence that is able to be disposed of summarily only at the election of the prosecution. The maximum penalty for the offence should be the same as for a breach of a Domestic Violence Order, namely three years imprisonment. Consistent with other offences attracting similar penalties, the offence should be a misdemeanour as opposed to a crime.

The Taskforce considers this behaviour is especially serious when it is engaged in by a licensed private investigator or other person for reward. If an offence is committed in these circumstances, the seriousness should be reflected by the new offence carrying a circumstance of aggravation, which has the effect of increasing the maximum penalty that can be imposed. The aggravated offence should be a crime that is indictable and should attract a maximum penalty of five years imprisonment. This offence should also be able to be disposed of summarily only at the election of the prosecution.

In order to actively dissuade perpetrators from encouraging third parties to commit acts of domestic violence on their behalf, sections 56 and 106 of DFVP Act which provide for the standard conditions that must be included in police protection notices and Domestic Violence Orders should be amended. The sections should be amended to make it a standard condition of both police protection notices and Domestic Violence Orders that the respondent not engage, organise or otherwise ask another person to undertake behaviour on their behalf that would constitute domestic violence against the aggrieved.

Amendments to the Security Providers Act 1993

A conviction for the new offence recommended above should disqualify a person from holding or obtaining a private investigator's licence under the *Security Providers Act 1993* (Security Providers Act). The Taskforce recommends that the definition of a 'disqualifying offence' in the dictionary in Schedule 2 of this legislation should be amended to include a conviction for the recommended DFVP Act facilitation offence when it is committed for reward by a private investigator. This would have the effect of preventing a person who engages in this unacceptable behaviour from being eligible to hold or obtain a licence as a private investigator under the Security Providers Act.

Timing

A draft Bill containing the new facilitation offence should be released as a consultation draft for a period of at least three months before it is introduced into Parliament. This consultation should include legal, domestic and family violence, and Aboriginal and Torres Strait Islander stakeholders, as well as people with lived experience of domestic and family violence.

Legislative amendments to create the new facilitation offence should be introduced into Parliament in 2023 following public consultation on a draft Bill for at least three months. The amendments should commence, subject to passage of the Bill with any amendments, on a set date in 2024, that is, at least 15 months after debate and passage to enable implementation activities to be undertaken.

Actions required between passage of the legislation and commencement of the legislation

Court systems will need to be updated to ensure that they will capture relevant information regarding third parties being dealt with under the facilitation offence.

Lawyers should receive training about the new offence. Lawyers in particular will have to take care in engaging private investigators on behalf of their clients in family law matters to ensure that they do not instruct the private investigator to engage in behaviour that facilitates domestic and family violence when a Domestic Violence Order is in place, for example, surveillance of a victim.

Training about these proposed amendments will be required between the passage of the amendments and commencement. Not only will support workers and lawyers require training, but also government regulators responsible for assessing licence applications and renewals, private investigators and industry bodies. Judicial officers should consider undertaking professional development about the new offence.

A community awareness campaign about the new offence should improve understanding in the community about the nature and impacts of domestic and family violence including the coercive control. The campaign should include a clear message that it is the responsibility of all members of the community to call out coercive and controlling behaviour and not perpetuate domestic and family violence (chapter 3.1)

Human Rights considerations

Rights promoted

The human rights promoted by the proposed amendments are the right to recognition and equality before the law (section 15), the right to life (section 16), the protection from torture and cruel, inhumane or degrading treatment (section 17), the protection of families and children (section 26), the right to freedom of movement (section 19), the right to liberty and security (section 29) and the right to privacy and reputation (section 25).

The right to privacy and movement is based upon Article 17 of the ICCPR and provides that a person has a right not to have their privacy, family, home or correspondence unlawfully and arbitrarily interfered with or their reputation unlawfully attacked. The Human Rights Committee has commented that Article 17 places an obligation on states to ensure that effective measures are taken to provide adequate legislation to ensure that people are effectively able to protect themselves from any unlawful acts that do occur and to have an effective remedy against those responsible.[19] The proposed amendments promote that right.

Rights limited

The human rights under the Human Rights Act that are potentially engaged and limited are:

- Recognition and equality before the law[20]: the right of recognition as a person before the law, equal protection of the law without discrimination and protection against discrimination
- Freedom of expression[21]: this protects the right of all persons to hold an opinion without interference and the right of all persons to seek, receive and express information and ideas (including verbal and non-verbal communication)

The proposed amendments will have an impact on how private investigators do their job, and in some instances, limit their ability to take on work. The amendments will place new licensing requirements on investigators and provide a mechanism to ultimately disqualify unscrupulous investigators from holding a licence and performing work.

The proposed amendments also limit freedom of expression in that they will have an impact on the ability of private investigators to seek and receive information about victims of domestic violence and to share it with perpetrators.

Limitations are justified

Section 13 outlines that '[a] human right may be subject under law only to reasonable limits that can be demonstrably justified in a free and democratic society based on human dignity, equality and freedom.'[22] Therefore, a human right can be limited under the act if the limits are reasonable, can be justified, and are also acceptable under international human right law. The section outlines a number of factors, already listed in the diversion scheme recommendation above, that may be relevant when making this determination.[23]

The purpose of disqualifying private investigators who have facilitated domestic and family violence from holding or obtaining a licence may limit the right of people to access and maintain employment in private investigation. However, it is necessary to protect victims and their children from the harmful impacts of domestic and family violence and coercive controlling behaviour. Prioritising the right of victims to live their lives free from abuse is consistent with a free and democratic society based on human dignity, equality and freedom.

The right to freedom of expression is based on Article 19 of the ICCPR. As the Human Rights Committee comments, Paragraph 3 of Article 19 expressly states that the exercise of the right to freedom of expression carries with it special duties and responsibilities and limitation on the right is permitted which might relate to respect of the rights or reputation of others.[24] The amendments are in part seeking to limit the ability of third parties to monitor and control victims on behalf of perpetrators. To allow private investigators to perpetuate abuse in this way has a grave impact on the rights of victims and their children to live and move freely and enjoy their privacy.

Evaluation

The intention of these amendments is to improve the safety and well-being of victims of domestic and family violence by decreasing domestic and family violence being committed against victims by private investigators or friends and family of the perpetrator.

A review of the operation of the amendments to create a new facilitation offence should commence as soon as possible five years from their commencement to ensure they are operating as intended.

Agencies should ensure data and information is collected in an extractable form before the commencement of the amendments to inform this review.

The review of the operation of the amendments should consider the impact and outcomes for victims including in relation to their safety and perpetrator accountability.

Criminalising coercive control

In chapter 1.6, the Taskforce found that there is no one criminal offence is Queensland that sufficiently holds perpetrators of coercive control accountable for the full range of physical and non-physical violence and that a standalone offence criminalising coercive control should be introduced in Queensland.

As noted in chapter 2.1, in 2019 the United Nations Special Rapporteur examined the relevance of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment in the context of domestic violence. It was noted that coercive control amounts to cruel, inhuman or degrading treatment or punishment and, where it involves the intentional and purposeful or discriminatory infliction of severe suffering on a powerless person, amounts to torture.[25]

Over recent decades, the consensus around the world has been that coercive and controlling behaviours result in long-lasting harm to victims, their children and the wider community.[26] One way to address this is to criminalise the behaviour which will both condemn the abuse and deter those who might be inclined to rely on it as a means of controlling others.[27]

In 2004, the State of Tasmania created offences for economic and emotional abuse.[28] Legislation which criminalises various forms of coercive control has also been enacted in England,[29] Scotland,[30] Wales,[31] Ireland[32] and Northern Ireland.[33] Further, a number of states in the United States of America are considering criminalising coercive control and Hawaii has passed a bill making it a petty misdemeanour.[34] On 30 June 2021, the New South Wales Parliament's Joint Select Committee on coercive control recommended that New South Wales criminalise coercive control after a program of education, training and consultation.[35] Most recently, South Australia has introduced a bill proposing to criminalise coercive control.[36]

The Taskforce recommends that this offence should be based on the coercive control model introduced in Scotland with appropriate adaptions for the Queensland context.[37]

Recommendation 78

The Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence progress amendments to the Criminal Code to create a new offence to criminalise coercive control.

Legislation to establish the new offence should be introduced into Parliament by 2023, following the implementation of essential service system reforms recommended by the Taskforce as part of this report. The Bill including the new offence should be released as a consultation draft for a period of at least three months before it is introduced into Parliament. This consultation should include legal, domestic and family violence, and Aboriginal and Torres Strait Islander stakeholders, and people with live experience of domestic and family violence.

The new offence will be modelled on the coercive control offence that operates in Scotland with necessary adjustments to reflect Queensland laws, systems and particular needs.

The amendment will make it an offence to:

- undertake a course of conduct of two or more incidents that constitute domestic violence as outlined in the amended definition in section 8 within a relevant relationship as prescribed in the *Domestic and Family Violence Protection Act 2012*, and
- that a reasonable person would consider the course of domestic violence to be likely to cause one person in the relationship (the first person) to suffer physical or psychological or emotional or financial harm; and
- the domestic violence behaviour is directed by second person towards the first person.

The offence will include an embedded defence that the conduct was reasonable in the context of the relationship as a whole. The onus of proof is on the defendant who must raise the defence on the evidence and prove it on the balance of probabilities.

The new offence will be an indictable offence with a maximum penalty of 14 years imprisonment.

Recommendation 79

The Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence progress amendments to the *Penalties and Sentence Act 1992* to ensure that the new offence holds perpetrators accountable for non-compliance with court orders and harm caused to children by domestic and family violence and coercive control.

The amendments require a court sentencing an offender for a domestic violence offence to treat the following factors as aggravated for the purpose of sentencing:

- if the commission of the offence was also a contravention of an injunction or order imposed or made by a court or tribunal under a law of the Commonwealth or a State, including a Domestic Violence Order, or
- if some or all of the conduct that formed part of the offence exposed a child to domestic and family violence as prescribed in section 10 of the *Domestic and Family Violence Protection Act 2012*

The *Penalties and Sentences Act 1992* will also be amended to ensure that an offender's criminal history accurately reflects whether the domestic violence offence they have committed has also caused a child to be exposed to domestic and family violence.

Amendments to create the new offence and the amendments to the *Penalties and Sentences Act 1992* will commence, subject to passage on a set date in 2024 that is at least 15 months after debate and passage to enable implementation activities to be undertaken and enable sufficient services and supports to be in place before commencement.

Implementation

New offence criminalising coercive control in the Criminal Code

Location and name of the offence

The offence should be inserted in the Criminal Code which contains Queensland's most serious criminal offences. It is appropriate that an offence which criminalises serious domestic and family violence be located in this legislation. As the Bar Association of Queensland noted in its submission to the Taskforce:

> [a]ny new offence introduced in Queensland could properly be included in the Criminal Code where it would sit comfortably with other offences such as assault, torture and choking, suffocation or strangulation in a domestic setting. Such an approach would avoid the need to create entirely new legislation and would send the appropriate message that the offence is a serious one.[38]

Throughout consultation the Taskforce has heard that the phrase 'coercive control' while well known to domestic and family violence practitioners, is not well understood by the community at large. The Taskforce believes that including the words 'coercive control' in the name of the offence will have an educative function which will assist community education by 'calling out' and putting a name to the pattern of behaviour which is familiar to many people.

Therefore, the Taskforce is of the view that the name of the offence should reference the term 'coercive control' and the fact that the offence is a course of conduct offence. The Taskforce does not wish to prescribe the exact name the final offence should have, noting this is a matter best determined once the offence has been drafted. The Taskforce considers that title of the offence should not include the word "maintaining" (which is used elsewhere in the Criminal Code) as this could undermine the educative benefit of the offence.

It is not proposed that the new offence would have retrospective effect. It is intended that domestic and family violence and coercive and controlling behaviours occurring prior to the commencement of the offence would be able to be led as evidence of domestic violence under section 132B of the *Evidence Act 1977* (Evidence Act) and under the common law.

The offence should apply to all relevant relationships covered under the DFVP Act

The coercive control legislation should stipulate that the offence applies to a 'relevant relationship' as defined by the DVFP Act.[39] This means that the offence will be limited to domestic and family violence and apply to intimate relationships (past and present), wider family relationships and informal care relationships.

The Taskforce has heard repeatedly that coercive control does not stop when the relationship ends and that for many victims the abuse escalates following a relationship breakdown. It is noted that the Scottish legislation is drafted to include both partners and ex-partners.[40] Whilst Legal Aid Queensland (LAQ) told the Taskforce that a potential offence should apply to current and former intimate partner relationships only,[41] the Taskforce received many submissions supporting a wider application of the offence

The Department of Children, Youth and Multicultural Affairs supported the use of 'relevant relationship' in the DFVP Act, but they cautioned the need for consultation with Aboriginal and Torres Strait Islander peoples and culturally and linguistically diverse communities in relation to the potential impacts.[42]

During consultation with victims from culturally and linguistically diverse backgrounds in Toowoomba, the Taskforce heard that coercive control can be perpetrated by family members, such as parents in law.[43]. This issue will be addressed through the creation of a new facilitation offence discussed and recommended earlier in this chapter.

A number of stakeholders expressed concern in submissions and consultation that the offence should apply to intergenerational elder abuse within families who are impacted by coercive control.[44] Caxton Legal Centre told the Taskforce that:

> Coercive control within the context of elder abuse and family relationships shares the same pattern of controlling behaviour as is present in intimate partner violence. Many of our clients are victims of years of coercive control by their adult children, often without any issues of physical violence and often concurrent with issues of financial or economic abuse. For a number of our older clients, many years of coercive control eventually culminate in an act of physical violence committed by a young, physically fit adult, against an older, physically frail person.[45]

The Taskforce has clearly heard that it is important that people living with a disability and suffering from coercive and controlling behaviours in a domestic environment outside the context of an intimate relationship are protected by this new offence.[46]

The offence will apply to elder abuse when the conduct falls within the definition of domestic violence in a relevant relationship in the DFVP Act. The conduct described in these submissions is concerning and warrants further consideration in terms of how it can be captured within existing offences. However, expanding the offence to apply to a broader scope of conduct in the context of a wider range of relationships would capture behaviour beyond what is conceptualised as domestic and family violence and could have unintended consequences.

The offence should be a 'course of conduct' offence

The Taskforce recommends that the coercive control offence be a 'course of conduct' offence. This will appropriately reflect the nature of the conduct, which comprises of acts that demonstrate persistent domestic and family violence committed by the perpetrator on the victim/s. More broadly, introducing a course of conduct offence into the legislation will encourage a change in understanding about the nature of domestic and family violence offending.

A course of conduct offence is an offence which punishes multiple acts or omissions being committed by the perpetrator as part of a 'course of conduct' against a victim or victims. Examples of existing course of conduct offences in the Criminal Code in Queensland are the offences of Unlawful stalking under chapter 33A and Maintaining a sexual relationship with a child at section 229B.

In practice, it is foreseeable that the offence of coercive control could comprise of multiple particularised acts which are relied upon by the prosecution to prove the offence and may also be able to be charged as separate criminal offences on the indictment. The victim may also describe acts which can be relied upon by the prosecution to prove the offence of coercive control that are unable to be sufficiently particularised to be charged as separate criminal offences.

The Taskforce suggests that consideration should be given to including a provision similar to that contained within the offence of Maintaining a sexual relationship with a child, which provides:

- *the prosecution is not required to allege the particulars of any unlawful sexual act that would be necessary if the act were charged as a separate offence; and*[47]
- *the jury is not required to be satisfied of the particulars of any unlawful sexual act that it would have to be satisfied of if the act were charged as a separate offence; and*[48]
- *all the members of the jury are not required to be satisfied about the same unlawful sexual acts.*[49]

Use of the amended definition of 'domestic violence' in the DFVP Act to anchor the offence

The new offence should provide that it will be a criminal offence for a person to engage in a course of domestic violence behaviour towards another person likely to cause the other person to suffer physical, psychological, emotional or financial harm reasonably arising in all of the circumstances. The offence should draw on the amended definition of domestic violence in section 8 of the DFVP Act which will, as chapter 3.8 explains, contain a definition that refers to patterned behaviour and a clearer non-exhaustive list of behaviours encapsulating domestic and family violence, assisted by an additional clause that defines and describes coercive and controlling behaviour.

The minimum number of incidents that will have to be proved to constitute a course of domestic violence behaviour

The Taskforce recommends that the prosecution should have to prove a minimum number of two incidents of domestic and family violence in order to prove that a course of domestic violence behaviour has taken place.

The Taskforce received submissions containing different views about the number of incidents which should constitute a course of conduct. The Bar Association of Queensland (BAQ) believed that the prosecution should have to prove a minimum three incidents, with at least one act to occur in Queensland.[50] While LAQ were of the preliminary view that more than one occasion would demonstrate that the offence formed part of a pattern.[51] The submission from Queenslanders with a Disability Network were concerned that if 'three different episodes' were required to prove the offence, this would be onerous on vulnerable women living with a disability who would require support to report the incidents.[52]

The Taskforce notes that other jurisdictions vary in terms of the number of occasions of behaviour required to prove the offence. The Scottish offence requires at least two occasions of abusive behaviour.[53] England and Wales require conduct that causes the victim fear on at least two occasions or which causes such alarm or distress that their day-to-day activities are substantially adversely impacted.[54] The Bill containing the proposed South Australian offence requires three or more acts of abuse.[55]

The Taskforce anticipates that victims who have suffered persistent domestic and family violence may have some difficulty distinguishing between particular episodes of abuse. The Taskforce acknowledges that this is an issue that has arisen in respect to the offence of Maintaining a sexual relationship with a child.[56] When this issue became apparent with that offence the response of the Queensland Parliament was to amend the section to reduce the number of particularised acts from three or more occasions, to more than one occasion.[57]

The Taskforce thinks the nature of this new offence can be distinguished in many ways from the offence of Maintaining a sexual relationship with a child and that requiring only one incident may risk capturing non-patterned offending. However, it can foresee some instances where two protracted incidents of domestic violence will be sufficient for a jury to be satisfied that there is clear course of conduct or pattern of behaviour. For example, where a perpetrator has engaged in two protracted incidents of surveillance of the victim. For this reason, the Taskforce recommends that two incidents are a reasonable minimum number of incidents which can constitute the offence of coercive control.

The Taskforce recommends that there be no restrictions on the period of time between separate incidents. This is consistent with the approach taken in Queensland's existing course of conduct offences of Unlawful stalking and Maintaining a sexual relationship with a child. The Taskforce suggests that it should be a question of fact for a jury to determine in the particular circumstances of a case, whether two incidents occurring far apart in time amount to a course of conduct.

The prosecution should be required to prove the domestic violence behaviour was directed towards the victim but should not be required to prove actual harm

The coercive control offence should specify that the course of behaviour must be intentionally directed towards the victim. The purpose of this intention element is twofold. First, it will ensure that the offender can only be held liable for behaviour that they intentionally direct towards another person. Second, it will ensure that it is immaterial whether the perpetrator uses a third party to abuse the victim for example, a perpetrator who coercively controls a victim through their dealings with the children or by threats to harm pets or property. This is analogous to the approach taken in the offence of Unlawful stalking, which provides that Unlawful stalking is conduct 'intentionally directed at a person'.[58]

The focus of the offence should be on the behaviour of the perpetrator as opposed to the impact on the victim. This is supported by several submissions to the Taskforce from legal stakeholders cautioning against requiring proof of harm within the drafting of the offence.[59] As Professor McMahon and Dr McGorrery of the Deakin Law School have pointed out:

> Requiring proof of harm would mean that victims would need to testify about the extent of their psychological trauma, and then be subjected to the rigours of cross-examination. It also places the burden on the victim to have been harmed by behaviour, even if the behaviour is objectively wrongful, and this creates especial difficulties in prosecuting coercive control in relationships between those who are migrants or refugees and whose relationship predated their emigration from a patriarchal culture.[60]

Therefore, it is suggested that the legislation should make it clear that the prosecution only needs to prove that the course of conduct would be of a nature that was likely to cause the victim to suffer harm reasonably arising in all of the circumstances. By using the phrase 'reasonably arising in all the circumstances' which is also contained in the offence of Unlawful stalking,[61] the jury will be required to consider whether the harm was likely to be suffered by an objectively reasonable person in the victim's circumstances and the circumstances of the victim's relationship with the perpetrator.

Chapter 1.1 provided details about submissions received which describe how perpetrators of coercive control use a range of physical and non-physical forms of violence and abuse upon victims. As a result of this, the Taskforce recommends that the coercive control legislation should specify the harm suffered may be physical, psychological, emotional or financial which is consistent with the approach taken in the Scottish legislation.[62]

A specific defence should be provided

The Taskforce intends that all the relevant existing defences and excuses contained within chapter 5 of the Criminal Code will apply to the new offence. The Taskforce also recommends that the new coercive control offence contain an embedded reverse onus defence. This means that it will be a defence to the charge of coercive control when the defendant proves on the balance of probabilities that their conduct was reasonable, in the context of the relationship as a whole. It is suggested that the creation of this defence is necessary as the existing defences and excuses would not sufficiently enable a defendant to raise a defence of that nature in this context.

As a general rule in criminal trials the prosecution bears the burden of proving the guilt of a person to the standard of 'beyond reasonable doubt.'[63] There are however a number of examples in the Criminal Code where the burden of proof is reversed. The circumstances in which this occurs include a defence which the defence has to raise[64] and statutory provisions that place a legal burden on the defendant to establish a defence in that provision.[65]

The reasoning for imposing the legal burden on the defendant, sometimes known as a reversal of the onus of proof, is 'either that the proof of the matters in question involves the proof of facts "peculiarly within the knowledge of" the accused [defendant], or that the disproof of them would involve the Crown [Prosecution] in the difficult task of proving a negative.'[66] In cases where the legal burden is placed upon a defendant in respect of an issue, they will also bear the evidential burden of proof.[67] The defendant is required to discharge the burden to the civil standard of the balance of probabilities.[68] An example of such a statutory defence in Queensland law is where a person has been charged with the offence of unlawful carnal knowledge with or of children under 16.[69] A defendant may raise a defence that they believed on reasonable grounds that the child was 16 years or older at the time of the alleged offence.[70]

Under the legislation criminalising coercive control in England and Wales, an alleged perpetrator will not be guilty where they believed the coercive or controlling behaviour was in the best interests of the victim and in all the circumstances the behaviour was reasonable.[71] Notably, this only extends to behaviour that caused the victim to be seriously alarmed or distressed and had a substantial adverse effect on their daily activities.[72] It does not apply in circumstances where the behaviour caused the victim to experience fear that violence would be used against them on two or more occasions.[73] It has been suggested that the defence is for the most part redundant as the outcome of the crime requires the defendant to cause a substantial adverse effect on the victim.[74]

Behaviour that is thought to be in the best interests of the victim and which is reasonable, would rarely have such a negative effect on the victim.[75]

The legislation in Scotland does not refer to a notion that the alleged perpetrator was acting in the best interests of the victim. Instead, it provides a reverse onus defence if it can be shown that the course of behaviour was in fact reasonable in the particular circumstances.[76] What amounts to reasonable must be subject to judicial scrutiny and is raised in individual circumstances.[77] The Taskforce acknowledges that concerns have been raised by academics about how to determine norms or standards of reasonableness with respect to both the English and Scottish defences.[78]

In Ireland, the coercive control legislation does not have a discrete defence.[79] However, the defendant must *knowingly* use coercive controlling behaviour persistently. This creates its own complication in that it allows arguments to be presented by the defendant that they believe their behaviour is loving and caring rather than controlling.[80]

The proposed embedded defence is closest in construction to the Scottish legislation, but rather than focusing on reasonableness in particular circumstances, it focuses on reasonableness in the context of the relationship as a whole. This is consistent with the approach of the Taskforce throughout its work on coercive control, which has recognised that coercive control is a pattern of behaviour within the whole relationship, rather separate incidents.

Alternative verdicts

Under the Scottish legislation, if the facts of the substantive offence of abusive behaviour towards a partner or ex-partner cannot be proven the perpetrator can alternatively be convicted of the offence of threatening or abusive behaviour[81] or stalking[82] where the elements of those offences have been proven.[83]

Chapter 61 of Queensland's Criminal Code provides for circumstances in which a person who is indicted on one offence can be convicted of another offence if the elements of that offence are established on the evidence. While the best-known example is manslaughter as an alternative for murder,[84] there is also provision for other alternative verdicts including the homicide of a child,[85] offences of a sexual nature,[86] charges of specific injury where intent is an element[87] and charges of injury to property.[88]

While the Taskforce asked for feedback in its first Discussion Paper as to whether there should be provision for alternative verdicts in the new offence, very little feedback was received on this issue. LAQ told the Taskforce that should a standalone offence be created there should not be provision for an alternative verdict, given the maximum penalty suggested for the offence. While no maximum penalty was proposed in the Discussion Paper, penalties ranging from 1 year through to 14 years were discussed. The Criminal Code makes provision for alternative verdicts to be given in a range of cases carrying higher and lower maximum penalties than the 14 years proposed for the new coercive control offence.

The Taskforce sees merit in legislating to allow for alternative verdicts in the prosecution of the new offence. As discussed in chapter 1.5, stalking and torture are of particular relevance to coercive control, as they can capture the ongoing nature of the abuse and the emotional impact of the degradation experienced by the victim.[89]

The Taskforce does not consider the offence of Torture to be suitable as an alternative verdict for the new proposed offence because as discussed in chapter 1.6, it requires the prosecution to prove 'severe' and 'intentionally inflicted' pain and suffering to the standard of beyond reasonable doubt. If a jury is unable to convict an alleged perpetrator of the new coercive control offence, it seems unlikely to the Taskforce that they would be able to come to a finding of guilt for an offence of Torture. If the elements of Torture can be made out on the evidence in a particular case, this should be the charge indicted.

However, the Taskforce can foresee circumstances in which the offence of Unlawful stalking would be charged as an alternative to the coercive control offence. The Taskforce has deliberately recommended that similar language should be used in this new offence to Unlawful stalking and notes that:

- Unlawful Stalking requires the prosecution to prove a minimum of only one act or omission amounting to Unlawful Stalking, and
- many acts or omissions that amount to Unlawful stalking may also constitute domestic violence as defined by section 8 of the DFVP Act when they are directed towards a person in a relevant relationship to the defendant

In *R v Rehavi,*[90] the Court said at 577:

> There is a public interest in a fair trial and a jury ought to be permitted to return any verdict available on the evidence if that is consistent with justice to the accused. To shut the jury out from the lesser verdict compromises the verdict given.

The Taskforce considers that there are sufficient safeguards built into the criminal law to ensure that this provision would not be able to be used unfairly. For all offences, judicial officers need to ensure, before deciding to leave the possibility of conviction of an alternative offence to the jury, that in doing so, it will not involve a risk of injustice to the defendant.[91] Further, the current law provides that the defendant must have had the opportunity to fully meet the alternative charge alleged by the prosecution in the course of the defence.[92]

For these reasons, the Taskforce considers that offence of Unlawful stalking should be available as an alternative verdict in a prosecution for the coercive control offence.

The offence should be indictable and carry a maximum penalty of 14 years imprisonment

The new coercive control offence should be an indictable offence classified as a crime under the Criminal Code and carry a maximum penalty of 14 years imprisonment. The Taskforce recognises there will be a wide spectrum of offending behaviour that could be captured under the offence. This includes serious offending such as grievous bodily harm, which carries a maximum penalty of 14 years imprisonment. Further, as demonstrated from the accounts of victims in chapter 1.1, this type of behaviour can amount to a form of torture for a victim. In chapter 2.1, it was noted that coercive control has been recognised as a form of torture under international law therefore it is appropriate that this offence carry the same maximum penalty as the offence of Torture under section 320A of the Criminal Code. The Taskforce notes that the offence in Scotland also carries a maximum penalty of 14 years imprisonment.[93]

The Taskforce has noted that the new offence to be introduced in South Australia[94] proposes a maximum penalty of five years imprisonment, which increases to seven years imprisonment where a child is exposed. The Taskforce notes that the English offence carries a maximum penalty of five years imprisonment[95] but there is currently some argument by academics and stakeholders that this should be increased to ten years in line with the current maximum penalty for stalking.[96] This argument is based on the potential severity of coercive controlling behaviours, which may include both physical and non-physical violence over an extended period.[97]

The Taskforce expects that there may be some complexity involved in prosecuting the offence of coercive control. As a result of this, there are concerns that to allow the offence to proceed summarily as a matter of course would place a heavy burden on police prosecutions, who already prosecute a very high volume of matters. Therefore, the Taskforce recommends that new offence should only be able to be dealt with summarily when the accused person pleads guilty.

If a Magistrate deals with the offence summarily, the maximum penalty that can be imposed is 3 years imprisonment. Consistent with the current provisions of the Criminal Code the Magistrates Court will abstain from dealing summarily with a charge if it is considered that because of the nature

or seriousness of the offence or any other relevant consideration the defendant, if convicted, may not be adequately punished on summary conviction[98]; and where because of exceptional circumstances the charge should not be heard and decided summarily such as when the holding of a trial by jury is justified in order to establish contemporary community standards.[99]

The offence should be able to be declared a 'serious violent offence'

Under Part 9A of the *Penalties and Sentences Act 1992* (Penalties and Sentences Act), offenders can be convicted of a serious violent offence (SVO) and made to serve 80% of their sentence, or 15 years, whichever is less, before being eligible to apply for parole. This declaration is automatic where an offender is sentenced to 10 years imprisonment or more and is at the discretion of the sentencing judge when sentencing offenders to between five and ten years of imprisonment.[100] The SVO scheme is intended to reflect the need for the protection of the community from offenders who pose an ongoing risk to safety and community outrage at offences falling within the regime,[101] namely those listed in Schedule 1 of the Penalties and Sentences Act. The new offence should be included within Schedule 1 of the Penalties and Sentences Act to enable a court to make an SVO declaration where necessary, as part of the integrated sentencing process for perpetrators who need to spend longer in actual custody for the protection of the community and/or to be adequately punished for their offending.[102]

Restraining Orders

The Taskforce notes that when a charge for the offence of Unlawful stalking is brought, a court has a discretion to impose a restraining order against the charged person even in circumstances where that person is acquitted of the offence or the prosecution of the offence has been discontinued.[103] A restraining order means any order considered appropriate for the purpose of prohibiting particular conduct, including, for example, contact for a stated period by the person with a stated person or the property of a stated person.[104] As discussed in chapters 1.5, 1.6 and 3.8, there is a significant overlap between the behaviours falling within stalking and those falling within a new offence of coercive control.

The Taskforce considers it is prudent to include a provision in the new coercive control offence to allow a court to make a restraining order in similar circumstances to those contained in section 359F of the Criminal Code. The new restraining order should reflect not only the provisions of section 359F but also the amendments to section 359F, discussed in chapter 3.8.

Similar to a restraining order for Unlawful stalking, the circumstances leading up to the making of the proposed restraining order under the coercive control offence will have been serious enough to warrant the charging of an indictable criminal offence. While the order should be able to be made regardless of whether a perpetrator is found guilty or not guilty, or the matter discontinued, the need to ensure the safety of the victim and any children is paramount. The penalty for breaching the proposed restraining order should be consistent with the penalty for breaching the amended restraining order for Unlawful stalking, namely 3 years imprisonment and 5 years imprisonment where the perpetrator has been convicted of a domestic violence offence in the 5 years prior to the contravention.

Consistent with other offences carrying similar maximum penalties and the proposed penalty for the amended stalking offence, the former should be a misdemeanour and the latter a crime. This will ensure the continued protection of victims and children and be consistent with the amended restraining order that can be imposed for the offence of Unlawful stalking. The period for the restraining order related to the coercive control offence should be 5 years, unless the court is satisfied that a shorter period will not compromise the safety of the victim or children.

The Taskforce suggests that the creation of an approved form may assist lawyers and courts to draft and make orders that are properly tailored to the needs of victims and their children, which is intended to prevent further domestic and family violence.

A provision should be included in the section which requires the court or the prosecutor to provide a copy of a restraining order to the Commissioner of Police so that the details of the order can be logged by the QPS to facilitate immediate enforcement of the restraining order.

How evidence of the new offence will be gathered

The Taskforce has heard concerns expressed about how evidence for a standalone offence will be gathered and whether the prosecution will be able to prove the guilt of perpetrators of coercive control to the standard of beyond reasonable doubt.[105]

The Taskforce believes that police have the powers required to gather the evidence necessary to prove the new offence. As outlined in chapter 1.5, for all criminal offences it is the role of the police to investigate the matter and obtain the evidence in support of the prosecution case. This may include direct evidence from witnesses, forensic evidence, photographs or expert reports. Police have wide ranging powers under the *Police Powers and Responsibilities Act 2000* (PPRA) to stop, search and detain a person including:

- searching a person without a warrant[106]
- searching a vehicle without a warrant[107]
- arresting a person without a warrant[108]
- searching and seizing items (including weapons) suspected to be or related to an act of domestic violence or associated domestic violence.

Police are able to obtain search warrants in relation to information stored electronically. This includes obtaining a search warrant which includes an order that a specified person give 'a police officer access to the storage device and the access information and any other information or assistance necessary for the police officer to be able to use the storage device to gain access to stored information' and to do certain things in relation to that stored information.[109] Police are also able to apply for an order for access to information after a storage device has been seized under a search warrant under section 154A of the PPRA.[110] The Taskforce notes that there is currently a Bill before Parliament proposing to broaden the operation of section 154A by expanding the circumstances when a judicial officer may grant an access order to a digital device.[111]

In chapter 3.8 the Taskforce suggested that detailed legal guidance should be developed by the Office of the Director of Public Prosecutions and the QPS and that this could be modelled on the Crown Prosecution Service legal guidance material about 'Domestic Abuse' and 'Coercive or Controlling Behaviour in an Intimate or Family Relationship' for England and Wales.[112] The material about 'Coercive or Controlling Behaviour in an Intimate or Family Relationship' contains a non-exhaustive list of the types of evidence that could be used to prove the offence of controlling and coercive behaviour in England. This includes the equivalent of:

- *copies of emails*
- *phone records*
- *text messages*
- *evidence of abuse over the internet, digital technology and social media platforms*
- *photographs of injuries such as: defensive injuries to forearms, latent upper arm grabs, scalp bruising, clumps of hair missing*
- *999* [in Australia, 000] *tapes or transcripts*
- *CCTV footage*
- *body worn camera video footage*
- *lifestyle and household information and records including at scene photographic evidence*

- *records of interaction with services such as support services, (even if parts of those records relate to events which occurred before the new offence came into force, their contents may still, in certain circumstances, be relied on in evidence)*
- *medical records*
- *witness testimony, for example the family and friends of the victim may be able to give evidence about the effect and impact of isolation of the victim from them*
- *local enquiries: neighbours, regular deliveries, postal, window cleaner etc*
- *bank records to show financial control*
- *previous threats made to children or other family members*
- *diary kept by the victim*
- *victims account of what happened to the police*
- *evidence of isolation such as lack of contact between family and friends, victim withdrawing from activities such as clubs, perpetrator accompanying victim to medical appointments*
- *GPS monitoring devices installed on mobile phones, tablets, vehicles etc*
- *where the perpetrator has a carer responsibility, the care plan might be useful as it details what funds should be used for*[113]

Other evidence may include evidence of damage including to mobility devices and other aids, and evidence of injuries to pets.

Importantly, domestic and family violence practitioners have told the Taskforce that asking victims about what they do to protect themselves and their children often elicits more information about the conduct and its impact than only asking the victim to describe the conduct. For example, the family of a homicide victim described how prior to her death she would not go out to the clothesline without ensuring the doors and windows of the house were locked. This was because in the past the perpetrator had appeared inside the house once she returned indoors.

The admissibility of evidence in criminal proceedings in Queensland, is governed by the Evidence Act and the common law rules of evidence. Evidence of a statement made by one person to another is generally considered to be hearsay and not admissible. However, there are a number of exceptions to the hearsay rule including evidence of preliminary complaint in Queensland.[114] For offences of a sexual nature, evidence of what a victim has said to another person about an alleged offence, prior to the victim's first formal witness statement to a police officer, can be led as preliminary complaint evidence in trials.[115] Evidence of what the victim told another person is not proof that the offence happened, but can be used to assess the credibility of the victim. The Taskforce acknowledges that the potential use of evidence of preliminary complaint in matters involving coercive control should be explored further. The use of preliminary complaint evidence will be further discussed when the Taskforce considers the terms of reference concerning the experience of women across the criminal justice system.

Amendments to the Penalties and Sentences Act 1992

The Taskforce considers that offending which contravenes an order or exposes a child to domestic and family violence is particularly serious and should be able to be reflected on the criminal history and in sentencing a perpetrator. As noted by Professor McMahon and Dr McGorrery in their submission, '[c]hildren are witnesses to domestic abuse, weaponised for the purposes of abuse, and victims of abuse. Any coercive control offence should recognise this, taking particular guidance from the Scottish legislation.'[116]

At chapter 1.1 of this report the harm caused to children by coercive control is examined in detail. The Taskforce notes that under the Scottish legislation the offence is treated as 'aggravated' (although without an increase in maximum penalty) if the behaviour of the perpetrator is directed at a child or the child is used as part of the course of abusive behaviour.[117] This is a significant feature of the legislation in Scotland in that it reframes the experience of children and young people involved in domestic violence, constructing them as *experiencing* the abuse rather than merely *witnessing* it.[118]

The treatment of children under the Scottish offence reflected consultation with children's and women's charities including Scottish Women's Aid, the Centre for Research on Families and Relationships at the University of Edinburgh and the Office of the Commissioner for Children and Young People. These stakeholders strongly advocated for the need to create a status for children as co-victims, to ensure that abusive behaviours discussed in criminal cases where children were victims would have to be raised in linked civil cases considering such issues as child contact.[119]

In designing the coercive control offence, it is the intention of the Taskforce that the courts be able to place extra weight on offending that exposes a child to domestic violence. Consideration has been given to adding a similar circumstance of aggravation in Queensland which would have the effect of increasing the maximum penalty. However, the Taskforce considers that the maximum penalty for the new offence in our jurisdiction should be 14 years imprisonment. When considering a maximum penalty of imprisonment for an offence, the following observations of Mason CJ, Brennan, Dawson and Toohey JJ in *Veen v The Queen [No 2]* are of note:

> … [T]he maximum penalty prescribed for an offence is intended for cases falling within the worst category of cases for which that penalty is prescribed: Ibbs v. The Queen. That does not mean that a lesser penalty must be imposed if it be possible to envisage a worse case; ingenuity can always conjure up a case of greater heinousness. A sentence which imposes the maximum penalty offends this principle only if the case is recognizably outside the worst category.[120]

While offending being directed at or involving a child may be a case that falls within the worst category of cases of coercive control, the Taskforce also envisages that there will extremely serious cases falling into the worst category of cases that do not involve children. For these reasons, the Taskforce does not consider that a circumstance of aggravation is the right mechanism to achieve the necessary intention. Further, the creation of a circumstance of aggravation about a child being exposed to domestic violence may also result in children being called as witnesses to give evidence about this. It is recognised that this is not in the best interests of the child and should be avoided as far as possible.

To achieve a similar result as the Scottish circumstance of aggravation, the Taskforce proposes the following amendments be made to the Penalties and Sentences Act:

- An amendment to section 9 requiring a court sentencing an offender for the new coercive control offence, or any offence that falls within the definition of domestic violence offence under section 1 of the Criminal Code, treat the following as an aggravating factor on sentence:

    - if during the commission of the offence a child was exposed to domestic and family violence within the meaning of section 10 of the DFVP Act
    - if the offence committed was also a breach of domestic and family violence order or other court order or injunction
- An amendment to section 12A or the addition of a new section 12B to add an allegation to the existing domestic violence averment to reflect when the domestic violence offence has exposed a child to domestic violence, within the meaning of section 10 of the DFVP Act

Section 9 of the Penalties and Sentences Act contains several provisions directing a sentencing court to treat certain things as aggravating factors on sentence for specific types of offending. For example, section 9(4) provides for aggravating factors that must be taken into account when sentencing an offender for sexual offences committed against children or child exploitation offences. It is proposed that new subsection be added to section 9 that relates to sentencing for all offences coming within the definition of a domestic violence offence in section 1 of the Criminal Code. The subsection should require the court to treat the following circumstances as an aggravating factor in the sentence:

- during the commission of the offence a child was exposed to domestic and family violence within the meaning of section 10 of the DFVP Act
- if the offence committed was also a breach of a Domestic Violence Order or other court order or injunction

The Taskforce acknowledges that these factors can currently be taken into account by a sentencing court. However, the Taskforce believes that by making the aggravating factor explicit, it will reinforce the seriousness of coercive control being committed in these circumstances.

The Taskforce also is of the view that harm caused to children should be explicitly recorded on the verdict and judgment record that is produced by the court. This is a written document which records the outcome of a court proceeding.

Section 12A of the Penalties and Sentences Act requires a sentencing court to order an offence be recorded as a domestic violence offence if the court is satisfied it comes within the meaning of section 1 of the Criminal Code which takes the meaning of domestic violence from the DFVP Act. As identified in chapter 1.5, the formal recording of an offence as a 'domestic violence offence' on the criminal history of a perpetrator assists victims and courts in several ways:

- by identifying domestic violence perpetrators to future courts, police and corrective services who might deal with them
- by assisting in the identification and establishment of patterns of behaviour by the perpetrator over time, against the same or different victims

The Taskforce has heard that the impact of domestic and family violence on children is immense and ongoing, often affecting them for the rest of their lives and increasing the risk that they will go on to be perpetrators or victims in the future. The Taskforce recommends amending section 12A of the Penalties and Sentences Act or adding a new section 12B requiring a sentencing court to order that a domestic violence offence that exposes a child to domestic and family violence is formally recorded as such, for example 'domestic violence– child exposed'.

Further, like section 12A(3) of the Penalties and Sentences Act, where no conviction is recorded, the offence should still be entered in the perpetrator's criminal history. This amendment should apply to all offences that come within the definition of a domestic violence offence in section 1 of the Criminal Code. This reflects what the Taskforce has heard in terms of the vast array of physical and non-physical behaviours which domestic and family violence and coercive and controlling behaviour can present itself in and the harm it causes to children.

Similar to section 12A(5)-(11) of the Penalties and Sentences Act, at the time of conviction for an offence of domestic violence that exposes a child, the amendment should make provision for application to be made for previous similar convictions where a conviction was recorded to also be recorded as convictions for 'domestic violence – child exposed' or otherwise to be entered into the criminal history as 'domestic violence – child exposed' offences.

An averment to this effect will assist victims and courts to identify coercive control which involves aggravating conduct on a perpetrator's criminal history. Those viewing the criminal history, including judicial officers or police prosecutors who have a high volume of work, will be better able to assess the nature of the criminal history.

Timing

It is recommended that these amendments should be introduced into Parliament in 2023, and commence, subject to passage on a set date in 2024 that is at least 15 months after debate and passage to enable implementation activities to be undertaken and enable sufficient services and supports to be in place before commencement. This will allow for the community education campaign outlined in chapter 3.1 to have raised sufficient awareness about what coercive control entails and that will be criminalised. It will also allow for the necessary training to be undertaken and for police and court data systems to be established and service system responses to be expanded.

Consultation on a draft Bill should take place for a minimum of three months with legal stakeholders, specialist domestic and family violence workers and experts, Aboriginal and Torres Strait Islander stakeholders, people from culturally and linguistically diverse communities, people living with disability and those with lived experience of domestic and family violence.

The Taskforce strongly believes that the success of the new offence will hinge on there being sufficient leadup time prior to commencement. In recommending that the amendments creating the new offence commence at least 15 months after debate and passage the Taskforce notes that this is slightly longer than the leadup timeline in Scotland.[121] The Taskforce believes this will ensure that there is adequate time for comprehensive community-wide education and training and system reform tailored to Queensland's unique population including Aboriginal and Torres Strait Islander peoples and culturally and linguistically diverse communities.

It will also enable the roll out of priority perpetrator intervention programs for people convicted of a domestic violence related offence as part of the state-wide network of programs (chapter 3.4). This is important to ensure community-based sentencing options and perpetrator accountability and rehabilitation are available to the court as part of the range of sentencing options when the new offence commences.

Actions required between passage of the legislation and commencement of the legislation

It is envisaged that the introduction of this offence will also require a change to the way in which these matters are investigated by police and prosecuted by lawyers in court. In Scotland, when the offence of domestic abuse was being implemented, it recognised that frontline police must have a thorough understanding of domestic and family violence as they are directly responding to it.

In the first year following the implementation of the offence, the Scottish Government provided significant funding to Police Scotland to develop and deliver training in collaboration with Safe Lives. As a result of this funding, within the first twelve months following the new offence, over half of the 14,000 staff identified to attend training had done so; 20,000 officers and staff had completed online training; and 750 domestic abuse 'Champions' had been identified and trained.[122] Training those involved in investigating and prosecuting the offence, is a vital requirement to ensuring that the offence is properly implemented in Queensland. This report contains specific recommendations for the training that should be undertaken at the QPS in chapter 3.5.

It will be critical that lawyers, including prosecutors and those lawyers who work for Legal Aid Queensland and Community Legal Centre undertake training between passage and commencement of the new offence.

It will be important the new domestic and family violence Benchbook for the District and Supreme Courts recommended by this report be finalised before the new offence commences.

The Taskforce notes there are current practice directions for the existing section 12A of the Penalties and Sentence Act and that consideration may need to be given to updating these practice directions before the commencement of the amendments.[123]

Human rights considerations

Rights promoted

As discussed in chapter 2.1, coercive control is a violation of the human rights of victims, including the right to life (section 16); right to liberty and security of person (section 29) right to be protected from torture and cruel, inhuman and degrading treatment (section 17); right to privacy and reputation (section 25), the protection of families and children (section 26) and the right to enjoy human rights without discrimination (section 15(2)).

Chapter 2.1 noted that the right to life is particularly relevant to coercive control because the perpetration of coercive control statistically correlates with a high risk of lethality for victims.[124] The UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment has also recognised that coercive control amounts to cruel, inhuman or degrading treatment or punishment and may in some cases amount to torture.'[125] As discussed in chapter 2.1, the physical, psychological and financial impacts of coercive control can limit the rights of victims, their children, and their friends and families.

The Queensland Government has a positive obligation under the Human Rights Act to protect the lives and the physical and psychological safety of victims of coercive control.[126] The current criminal law in Queensland does not adequately address coercive control, nor do they provide sufficient protection to Queensland citizens from these human rights violations. The introduction of a standalone offence will ensure that the rights of victims are best protected and promoted.

Rights limited

Legislating against coercive control will limit a number of important human rights including right to recognition and equality before the law (section 15); cultural rights – generally (section 27); cultural rights – Aboriginal peoples and Torres Strait Islander peoples (section 28); right to liberty and security of person (section 29); right to privacy and reputation (section 25); right to a fair hearing (section 31); and rights in criminal proceedings (section 32).

If criminalising coercive control results in the misidentification of victims as perpetrators, or the overcriminalisation of particular groups of people, a number of rights will be limited. Throughout consultation the Taskforce heard about the potential impact that criminalising coercive control could have on Aboriginal and Torres Strait Islander people, particularly women, who are overrepresented in the criminal legal system if we legislate against coercive control.[127]

Section 28 (Cultural rights – Aboriginal and Torres Strait Islander peoples) requires the protection and promotion of Aboriginal and Torres Strait Islander peoples' right to practise, maintain and develop their culture and not be subjected to forced assimilation or destruction of their culture. The cultural rights of Aboriginal and Torres Strait Islander peoples will be limited if the creation of the offence contributes to or exacerbates the overrepresentation of Aboriginal and Torres Strait Islander people in the criminal justice system. Currently, the civil Domestic Violence Order scheme ensures that, at least in the first instance, responses to domestic and family violence can avoid criminal

sanctions. But as discussed elsewhere in this report, First Nations people are already over criminalised when it comes to contraventions of domestic and family violence orders. Increasing the number of First Nations people in prisons will sever the right of indigenous people to maintain kinship ties (section 28(c)) by removing First Nations offenders from their communities.

The Taskforce heard that criminalisation could also have unintended consequences for people with mental health concerns, people with disability, older people, people with cognitive decline, and people from culturally and linguistically diverse backgrounds. The potential that the offence will have greater impact on diverse and vulnerable populations will limit the right to recognition and equality before the law, which requires that laws and policies are applied equally, and do not have a discriminatory effect.[128] Other rights which may be limited by misidentification of victims and overcriminalisation include:

- Right to liberty and security of person (section 29): by resulting in wrongful imprisonment where a victim has been misidentified as a perpetrator
- Cultural rights – generally (section 27): should the offence result in the overcriminalisation of culturally and linguistically diverse people, or where culturally and linguistically diverse women are misidentified and/or subjected to systems abuse by a partner accusing them of coercive control
- Right to protection of families and children (section 6): by potentially removing a misidentified, non-aggressor parent from the care of a child

Criminalising coercive control may also limit the cultural rights of culturally and linguistically diverse Queenslanders by imposing criminal sanctions against behaviours which may be considered acceptable in some communities, such as control of finances or prescriptive gender roles.

The right to liberty and security of persons entitles all persons to liberty, including the right not to be arrested or detained except in accordance with the law. The creation of a new criminal offence may limit the right by providing for the detention of individuals found guilty of the offence and sentenced to a period in prison. Although the creation of the offence will render the detention 'in accordance with the law', the comparatively high maximum penalty of 14 years imprisonment will increase the length of time a person could be detained in comparison to existing offences for similar conduct (such as contravention of a Domestic Violence Order).

Some may consider that criminalising coercive control would limit the right to privacy and non-interference with family (section 25(a)). The right not to have one's family interfered with protects 'the intimate relations which [people] have in their family' which is indispensable 'for their personal actuation'.[129] Criminalising 'private' conduct within families which previously was not criminal unless it constituted the breach of a Domestic Violence Order could be seen as an interference with families.

Rights in criminal proceedings will be limited through the creation of the offence due to the defence reversing the onus on the defendant to prove that the behaviour was reasonable within the context of the relationship as a whole.

Limitations are justified

Under section 13 of the Human Rights Act '[a] human right may be subject under law only to reasonable limits that can be demonstrably justified in a free and democratic society based on human dignity, equality and freedom.'

The **purpose of limiting** the above rights is to protect victims of coercive control and to intervene to prevent future abuse from occurring. Throughout this report, the cumulative effect of repeated physical and non-physical abuse has been highlighted. This abuse significantly limits human rights. At its most shocking, the Queensland community has seen that women are dying at the hands of coercively controlling partners. Beyond this, thousands more women are suffering from patterns of abusive behaviour behind closed doors. Criminalising coercive control will address a significant public concern, will protect the safety of women and their children, and will send a message to perpetrators

that this conduct is never acceptable. While this action may limit human rights, the purpose of limiting the rights is clearly consistent with the values of a free and democratic society.

The Taskforce is of the view that the limitations of the offence achieve the purposes of protection and prevention outlined above. A criminal offence will see some high-risk coercive controllers incarcerated, removing their ability to further terrorise their victim.

The Taskforce does not consider that a less restrictive response to coercive control would achieve the same purpose. While the Taskforce has recommended a large range of actions aimed at responding to coercive control, the absence of a criminal offence to address the cumulative impact of patterns of abuse renders the creation of a criminal offence necessary. The creation of a standalone offence is also considered the most powerful way to send a message to the community that coercive controlling behaviour is unacceptable.

The Taskforce has also included a number of safeguards which reduce the potential human rights limitations within the offence. They include:

- the requirement for course of conduct (minimum of two) – reduces the potential for misuse of the offence and potential for use leading to overcriminalisation
- including a defence that the conduct was reasonable in the context of the relationship as a whole
- connecting the offence to conduct already defined and domestic and family violence under the DFVP Act – not criminalising new conduct
- rehabilitation and sentencing options
- the implementation of a post-conviction civil supervision and rehabilitation order

Throughout this report the Taskforce has made a number of recommendations intended to prepare Queensland for the introduction of an offence of coercive control. The cumulative impact of these recommendations reduces the limitations:

- primary prevention aimed at preventing coercive control before it starts including:
    - increasing the sophistication and integration of primary prevention activities for domestic and family violence across Queensland
    - compulsory respectful relationships education in all Queensland schools
    - raising community awareness through a comprehensive campaign to educate the community about domestic and family violence and coercive control
- building capacity in the Queensland Police Service through a transformational plan including:
    - delivering ongoing evidence-based trauma informed domestic and family violence training
    - the provision of specialist trained domestic and family violence detectives
    - reviewing and updating operational policies and procedures to be culturally capable, victim centred and trauma informed
- trialling and evaluating a co-responder model involving specialist domestic and family violence services with a particular focus on the needs of Aboriginal and Torres Strait Islander victims
- building capacity in the justice system
- ensuring that all Queensland legal practitioners understand the nature and impact of domestic and family violence and coercive control

- expanding perpetrator programs and diversion and sentencing options
- the implementation of a diversion scheme for first time breaches of domestic family violence orders and the new facilitation offence for third parties who facilitate domestic violence on behalf of a perpetrator, are intended to stop domestic and family violence including coercive control before the behaviour escalates to more dangerous levels.

On balance, the Taskforce considers that the rights outlined above can be reasonably and demonstrably justified[130] on the basis that the purpose of the limitation is to prevent continued abuse of victims of domestic and family violence and coercive and controlling behaviours, abuse which is not compatible with human dignity, equality and freedom. Therefore, the benefits gained by fulfilling the purpose of the limitation outweigh the harm caused to the human right.

Evaluation

The intention of these amendments is to ensure that victims and their children are kept safe by perpetrators of coercive control being held to account for the full spectrum of their abuse against their victims including children who may be exposed to their violent and abusive behaviour. The Taskforce acknowledges that it will be important to guard against any unintended consequences and therefore it is important that at the five year review of the legislation data has been gathered which will paint an accurate picture about the use of the offence.

A review of the operation of the amendments to create a new offence should commence as soon as possible five years from their commencement to ensure they are operating as intended.

Agencies should ensure data and information is collected in an extractable form before the commencement of the amendments to inform this review.

The review of the operation of the amendments should consider the impact and outcomes for victims including in relation to their safety and perpetrator accountability.

Amendments to the *Penalties and Sentences Act 1992*

A new sentencing order – a post-conviction supervision and rehabilitation order

In chapter 1.6, the Taskforce found that enabling a sentencing court to impose a post-conviction civil supervision and rehabilitation order is important as it addresses rehabilitation needs for perpetrators and also prioritises community and victim safety. The Taskforce were of the view that such an order is desirable because:

- it would allow a sentencing court to order interventions that serve both a rehabilitation and a community and victim safety purpose according to the attributes of offenders
- it would offer more flexibility than Queensland's present sentencing options so that the most appropriate sentence could be imposed
- it would provide an opportunity for long term case managed supervision of perpetrators in appropriate circumstances
- it may complement the protections in place as part of a civil Domestic Violence Order
- it may also relieve a victim from the responsibility of trying to encourage an offender-partner she may still be in relationship with to obtain rehabilitative assistance
- utilising the proposed register in option 11 simultaneously with the post-conviction civil supervision and rehabilitation order and if appropriate a civil Domestic Violence Order in favour of the victim would offer up to three levels of protection to victims or prospective victims and would maximise 'eyes on the perpetrator'.

Recommendation 8 in the 2019-2020 Annual Report of the DFVDRAB was that the Queensland Government consider implementing 'civil supervision and monitoring schemes that are in place in comparable jurisdictions and post-supervision schemes that exist in Queensland for other types of offenders (such as for those convicted of serious sexual offences).'[131] They observed that in the England and Wales, Criminal Behaviour Orders (CBO) can be imposed after a perpetrator is convicted of any offence in a criminal court.[132] The DFVDRAB Report acknowledged that a CBO in England and Wales is not 'exclusively designed for domestic and family violence related offending, there is a precedent in the UK for the use of CBOs for perpetrators of domestic and family violence.'[133]

In England and Wales, the relevant sections regarding CBOs are found in Chapter 1, sections 330-342 of the *Sentencing Act 2020* (UK) (Sentencing Act). Section 330 defines a CBO as follows:

> *In this Code "criminal behaviour order" means an order which, for the purpose of preventing an offender from engaging in behaviour that is likely to cause harassment, alarm or distress to any person—*
>
> *(a) prohibits the offender from doing anything described in the order;*
>
> *(b) requires the offender to do anything described in the order.*[134]

The Queensland Government accepted the DFVDRAB recommendation noting the Taskforce was examining this issue.

It is the role of the prosecution in England and Wales to apply for a CBO after the perpetrator has been convicted of a criminal offence. The CBO hearing can occur at the same time or after the sentence for the criminal offence that the perpetrator has been convicted of.[135] The power to make a CBO is outlined in section 331 of the Sentencing Act. In summary, the test for making an order is:

> *That the court is satisfied beyond reasonable doubt that the offender has engaged in behaviour that has caused or is likely to cause harassment, alarm or distress to any person; and*
>
> *The court considers that making the order will help prevent the offender from engaging in such behaviour.*[136]

The section also notes that if an offender will be under the age of 18 when the application is made, before applying for a CBO, the prosecution must find out the views of the local youth offending team.[137] This consultation is done by the organisation preparing the application for the CBO, which is the council or the police.[138] The views of the youth offending team are then forwarded as part of the file of evidence to the prosecution.[139] When applying for a CBO for an offender over the age of 18 years, there is not a consultation requirement that is specified in the legislation. It has been noted that:

> The legislation has deliberately kept formal consultation requirements to a minimum to enable agencies to act quickly where needed to protect victims and communities. However, in most cases it is likely that the police or local council will wish to consult with other agencies … Their views should be considered before the decision is made to ask the [Crown Prosecution Service] to consider applying for a CBO. This will ensure that an order is the proper course of action in each case and that the terms of the order are appropriate.[140]

As mentioned in the DFVDRAB Annual Report, the CBO in England and Wales is used to deal with a range of anti-social behaviours. This includes 'threatening others in the community, persistently being drunk and aggressive in public, or to deal with anti-social behaviour associated with a more serious conviction, such as for burglary or street robbery.'[141] It has been recognised that a CBO may be appropriate in some cases involving domestic abuse. An example of a CBO being imposed in a matter involving domestic and family violence is the decision of *R v Terence Robert Maguire [2019] EWCA Crim 1193*. In that case:

> [T]he Court of Appeal imposed a CBO on a defendant with conditions to inform the police of any address at which he resides and to provide the police with the name and address of any female which whom he resides for a period of 14 days or more. The Court of Appeal imposed these conditions as they were necessary to address the risk that the defendant posed to women that he may enter into a relationship with in the future. The judgement also sets out the importance of conditions being drafted in a way which can be clearly understood and monitored.[142]

Section 332 of the Sentencing Act addresses the proceedings on an application for an order. This section notes that 'it does not matter whether the evidence would have been admissible in the proceedings in which the offender was convicted.'[143] It has been observed that an application for a CBO does not require there to be a link between the criminal behaviour that the perpetrator was convicted of the anti-social behaviour being addressed by the CBO.[144] This means that evidence at the CBO hearing may for example be 'evidence of other anti-social behaviour by the offender and information about why an order is appropriate in the terms asked for.'[145]

There is also a section which outlines considerations about the requirements included in CBO orders.[146] Orders can include prohibitions or requirements or both. Therefore, the CBO will include details about what the offender is not allowed to do in order to stop the anti-social behaviour (prohibitions), for example, 'the individual entering a defined area.'[147] It can also include details of what they must do (requirements) to address the underlying causes of their behaviour, for example:

- attendance at a course to educate offenders on alcohol and its effects
- an anger management course where an offender finds it difficult to respond without violence
- youth mentoring
- a substance misuse awareness session where an offender's anti-social behaviour occurs when they have been drinking or using drugs
- a job readiness course to help an offender get employment and move them away from the circumstances that cause them to commit anti-social behaviour[148]

The court must decide which prohibitions or requirements are needed, in order to stop and prevent future anti-social behaviour. Before including a requirement, the court must receive evidence about its suitability and enforceability from:

- the individual to be specified in the order, or
- an individual representing the organisation to be specified in the order.[149]

This could be in the form of a letter stating that the individual or organisation has been spoken to and the suitability and enforceability of the requirement has been confirmed.[150]

Section 334 of the Sentencing Act outlines that the duration of the order for adults is a minimum of two years, up to an indefinite period; and for a person under the age of 18 it is between one and three years.[151] Section 335 allows for interim orders to be made in circumstances where a CBO hearing is adjourned after a sentence. An interim order is granted 'if the court thinks it is just to do so.'[152] Applications can be made to the court that made the original order, to vary or discharge a CBO.[153] This can be made by either the offender or the prosecution.[154] The power to vary the order includes power to include additional prohibitions or requirements or extending the period of the order.[155] It has been recognised that 'this flexibility allows for those monitoring the progress of offenders to alter the conditions of the order to suit developing or new circumstances.'[156]

Section 337 provides for annual reviews to be conducted for CBOs that have been imposed upon offenders under the age of 18.[157] A review is carried out by the chief officer of police for the police area where the offender resides, in cooperation with the council for the local government area where the offender resides.[158] The chief officer of police may invite any other person or body to participate

in the annual review.[159] This could include teams, establishments or organisations who have been working with the young person.[160] Following the review, an application to vary or discharge the CBO can be made to the court.[161]

Section 339 of the Sentencing Act deals with a breach of a CBO order. It is a criminal offence if an offender does anything he or she is prohibited from doing, or fails to do anything he or she is required to do by a CBO. A person guilty of an offence is liable to:

- on summary conviction: a maximum of six months imprisonment, or a fine, or both[162]
- on conviction on indictment: a maximum of five years imprisonment, or a fine, or both[163]

A person under the age of 18 must have the hearing in the youth court where the 'maximum sentence is a two year detention and training order.'[164]

Section 340 of the Sentencing Act outlines special measures for vulnerable and intimidated witnesses that applies to criminal behaviour order proceedings. This is an important provision to consider when obtaining evidence from victims of domestic and family violence. Another evidential consideration, which has been allowed in CBO hearings in England and Wales, is evidence being given in documentary form rather than by a witness in certain circumstances. It has been observed that:

> Witnesses who might be reluctant to give evidence in person may have their evidence accepted as a written statement or given by someone such as a police officer as hearsay evidence, but this will depend on the circumstances of the case.[165]

In Scotland, as part of the sentencing regime, the government has legislated for Community Payback Orders (CPOs). The relevant sections are 227A – 227ZN of the *Criminal Justice and Licensing (Scotland) Act 2010.* The CPO sections were introduced in 2011 and replaced community service orders, supervised attendance orders and probation orders.[166] The CPO can consist of one or more of nine different requirements.[167] The judge will decide which requirements should be selected in order to prevent the offender from committing further offences.

Section 227A outlines when a community payback order can be imposed and the nature of the order:

> *227A Community payback orders*
>
> *(1) Where a person (the "offender") is convicted of an offence punishable by imprisonment, the court may, instead of imposing a sentence of imprisonment, impose a community payback order on the offender.*
>
> *(2) A community payback order is an order imposing one or more of the following requirements—*
>
> *(a) an offender supervision requirement,*
>
> *(b) a compensation requirement,*
>
> *(c) an unpaid work or other activity requirement,*
>
> *(d) a programme requirement,*
>
> *(e) a residence requirement,*
>
> *(f) a mental health treatment requirement,*
>
> *(g) a drug treatment requirement,*
>
> *(h) an alcohol treatment requirement,*
>
> *(i) a conduct requirement.*[168]

Section 227B of the *Criminal Justice and Licensing (Scotland) Act 2010* outlines the procedure prior to the imposition of a CPO. It states that '[t]he court must not impose the order unless it has obtained,

and taken account of, a report from an officer of a local authority containing information about the offender and the offender's circumstances.'[169] The report is obtained from a criminal justice social worker and is intended to provide the judge with background information about the offender 'such as any offences they committed before, their risk of offending again, their need to change their offending behaviour, and their health and their living situation.'[170]

Section 227C contains provisions concerning the role of the responsible officer, who is a criminal justice social worker supervising the requirements of the CPO.[171] The section includes a provision 'requiring the offender to report to the responsible officer in accordance with instructions given by that officer.'[172] When managing a CPO, the impact that the offending behaviour has on victims and the wider community is to be taken into account.[173] In respect of offences of domestic abuse, responsible officers have contact with victims.[174] There is practice guidance about how responsible officers should interact with victims of domestic abuse.[175] It also contains a non-exhaustive list of measures that can be undertaken by the responsible officer throughout the CPO order to protect the safety of victims. This includes:

- provide advice to the victim on safety planning, who should be contacted, and the action they should take if the individual does not adhere to requirement/condition which is intended to prevent victim access
- help the victim to secure assistance in improving household security (such as asking the landlord to fit more robust external locks, and fit internal door locks)
- flag the address with the police so that it can be patrolled and maintain regular contact with domestic abuse liaison officers
- maintain contact with housing services/associations and community wardens to increase the monitoring of the situation
- undertake home visits to the victim when the individual subject to the CPO is attending unpaid work or a programme, and request that other professionals (women's worker, police domestic abuse officer) do so
- offer to meet the victim outside the home in a place where they feel safe and comfortable having a discussion
- undertake victim safety planning and keep their safety under regular review
- refer the case to multi-agency decision making bodies such as the Multi-Agency Risk Assessment Conference (MARAC) and/or the Multi-Agency Tasking and Coordination group (MATAC) when multi-agency actions are required in relation to the safety, health and wellbeing of the victim (and their children); and invoke Multi-Agency Public Protection Arrangements (MAPPA) if appropriate[176]

In Australia, the State of Western Australia has introduced the *Prohibited Behaviour Orders Act 2010* (WA). This legislation has similarities with the CBO legislation in England and Wales. The purpose of this legislation is to enable courts 'to make orders that constrain offenders who have a history of anti-social behaviour and for related purposes.'[177] In the State of New South Wales, a serious crime prevention order can be imposed in respect of serious crime related activity.[178] However, it is not necessary to have been convicted of an offence.[179] In Queensland, part 9D of the Penalties and Sentences Act provides for post-conviction orders for offenders who are involved in organised criminal activities. Whilst the purpose of these orders differs, the way that the provisions operate can be applied in the context of a post-conviction civil supervision and rehabilitation order.

Recommendation 80

The Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence progress amendments to the *Penalties and Sentences Act 1992* to establish a new post-conviction civil supervision and rehabilitation order for serious domestic and family violence offenders. The new order should be informed by the model in operation in the United Kingdom and previous recommendations made by the Queensland Sentencing Advisory Council to create a new flexible community correction order.

The main aims of a new post-conviction civil supervision and rehabilitation order will include:

- improving victim safety by holding the perpetrator accountable to stop the violence
- tailoring an order to the safety and risk of harm to the victim and risk of further offending by the perpetrator, particularly when used in conjunction with an order that the perpetrator be registered in the new domestic and family violence non-publicly disclosable register (recommendation 81)
- increasing the range of sentencing options available to address serious domestic violence offending behaviour
- providing an opportunity for longer term case management, intensive supervision, and where possible rehabilitation of perpetrators in appropriate circumstances
- complementing the protections in place as part of a Domestic Violence Order.

It will be available to a court as a sentencing option for a person convicted of an offence including:

- the new coercive control offence (recommendation 78)
- choking, suffocation or strangulation in a domestic setting under section 315A of the Criminal Code, or
- any other domestic violence offence as defined under the *Domestic and Family Violence Protection Act 2012.*

A court sentencing a person convicted of an offence above if the court is satisfied:

- the offender had engaged in behaviour that constitutes domestic and family violence
- the court considers that making the order will prevent the offender from further engaging in behaviour that constitutes domestic and family violence, and
- that making the order is appropriate in all the circumstances

The terms of the order will be tailored to the individual offender and include, for example, engagement in treatment in the community as well as prohibitions on contact with certain individuals or attendance at certain places. This order could be applied to offenders who present varying levels of risk and the conditions of the order could be scaled up or down accordingly and could made in addition to a Domestic Violence Order.

Legislation to establish the new post-conviction civil supervision and rehabilitation order should be introduced into Parliament in 2023, following the implementation of essential service system reforms recommended by the Taskforce as part of this report. The Bill including the new post-conviction civil supervision and rehabilitation order should be released as a consultation draft for a period of at least three months before it is introduced into Parliament. This consultation should include legal, domestic and family violence, and Aboriginal and Torres Strait Islander stakeholders, and people with lived experience of domestic and family violence.

The new post-conviction civil supervision and rehabilitation order should commence, subject to passage of the Bill, on a set date in 2024, that is, at least 15 months after debate and passage to enable implementation activities to be undertaken and sufficient services and supports to be in place before commencement. This should be the same date as the commencement of the new coercive control offence.

Implementation

In Queensland, offenders being sentenced for criminal offences can be given orders that are supervised in the community including an intensive correction order; intensive drug rehabilitation order; parole order; prison/probation order; and a probation order. The difference between those orders and the recommended post-conviction civil supervision and rehabilitation order is that the new post-conviction civil supervision and rehabilitation order (the supervision and rehabilitation order) will be tailored to address domestic and family violence offending. It is designed to focus both on the safety to the victim and the community by stopping the behaviour, as well as rehabilitating the offender by addressing the underlying causes of the behaviour. Further, if the order is breached, the offender will have committed an offence where the maximum penalty is a term of imprisonment.

It is proposed that the post-conviction civil supervision and rehabilitation order be based on elements of the CBO model in England and Wales and the CPO model in Scotland.

In designing the elements of the supervision and rehabilitation order regard should be had to sections 330-340 regarding CBOs in the Sentencing Act in England and Wales and also existing sections of the Penalties and Sentences Act that deal with making of control orders in part 9D.

When the new order should be made

A court sentencing an offender for the following offences should be required to actively consider whether it is appropriate to make an order but retain ultimate discretion to make the order when sentencing a person convicted of:

- the new coercive control offence (recommendation 78)
- Choking, suffocation or strangulation in a domestic setting under section 315A of the Criminal Code
- Unlawful stalking with the new recommended circumstance of aggravation (recommendation 52), or
- any other domestic and family violence offence as defined in section 1 of the Criminal Code

As this order is contained in the Penalties and Sentences Act it is not proposed to apply to children. The Taskforce notes that Part 7 of the *Youth Justice Act 1992* contains several sentencing options for children including conditional release orders which could contain elements of this order tailored to the needs of children. In chapter 3.4 of this report, there is discussion about improving and expanding perpetrator programs for children.

A court sentencing a person convicted of an offence committed in a domestic violence context could make an order if the court was satisfied:

- the offender has engaged in behaviour that was likely to cause harassment, fear or detriment to another person
- the court considers that making the order will prevent the offender from further engaging in such behaviour, and
- making an order is appropriate in all of the circumstances

In deciding whether it is appropriate to make the order in all the circumstances, the court should be required wherever it is practicably possible to take into account the views of the victim of the offence and consider the context of the whole relationship between the victim and the offender.

Similar to what is provided at section 161T of the Penalties and Sentences Act for a court issuing a control order, a sentencing court should be able to make the post-conviction civil supervision and rehabilitation order whether or not it records a conviction or makes another sentencing order for the offender at the same time.

Proceedings for the order

The Taskforce recommends that there should be a provision that enables an application for the supervision and rehabilitation order to be adjourned for not less than 20 business days from the day of conviction for the qualifying offence so that evidence on sentence may be received by the court. This will require the offender to be arraigned and the sentence then adjourned to a future date for sentence hearing. A provision similar to this already exists at section 166 of the Penalties and Sentences Act in relation to indefinite sentences.

When the court adjourns the offender's sentencing, there should be a requirement that a report be prepared by the chief executive (corrective services) similar to requirements currently provided at section 166A of the Penalties and Sentences Act. Alternatively, a pre-sentence report could be requested pursuant to section 344 of the *Corrective Services Act 2006*. A pre-sentence report is currently able to be provided to the court within 28 days, for sentencing proceedings pursuant to section 15(1) of the Penalties and Sentences Act.

Provisions about evidence should be drafted in similar terms to section 332(1) of the Sentencing Act in England and Wales discussed above. These provisions should further outline that the prosecution has the onus to prove that the offender has engaged in behaviour that was likely to cause harassment, fear or detriment to another person, which is similar to the purpose of section 169 in the Penalties and Sentences Act. The standard of proof should be on the balance of probabilities which is consistent with both section 132C of the Evidence Act and with the order being a civil order.[180]

In England and Wales, there is a section relating to special measures for witnesses.[181] The Taskforce recommends that victims should have the ability to give evidence about the impact that the behaviour has had on them in oral or written form. Therefore, the legislation should provide that a victim impact statement can be provided to the court. There should also be a section about special measures for witnesses who give evidence, including that victims of domestic and family violence are considered special witnesses under section 21A of the Evidence Act.

It is the Taskforce's intention that normal appeal rights would apply but that similar for what is already provided at section 161ZZE of the Penalties and Sentences Act for control orders the starting of an appeal against the making of a supervision and rehabilitation order for a person will not affect the order.

There should be a provision that requires a copy of the supervision and rehabilitation order to be sent to the Commissioner for Police to ensure that QPS can enforce any relevant conditions of the order.

Conditions of the new order

In chapter 1.5, the Taskforce noted that flexible community correction orders that provides options to blend rehabilitation, monitoring and accountability are used regularly to sentence perpetrators of coercive control in Scotland. Enabling a sentencing court to order interventions is important as it addresses rehabilitation needs for perpetrators and also prioritises community and victim safety. The CPO requirements in Scotland outlined in sections 227A – 227ZN of the *Criminal Justice and Licensing (Scotland) Act 2010* should be incorporated as options:

- an offender supervision requirement
- a compensation requirement
- an unpaid work or other activity requirement
- a programme requirement
- a residence requirement

- a mental health treatment requirement
- a drug treatment requirement
- an alcohol treatment requirement
- a conduct requirement

In the report of the Queensland Sentencing Advisory Council, a number of recommendations were made including the introduction of a new community correction order.[182] The Queensland Government has not yet responded to the recommendations. In the recommended community correction order, a number of additional requirements were proposed and may also useful to consider for the post-conviction civil supervision and rehabilitation order. They include:

- community service condition
- supervision condition
- rehabilitation condition
- treatment condition
- alcohol abstinence and monitoring condition
- drug abstinence condition
- non-association condition
- residence restriction and exclusion condition
- place or area exclusion condition
- curfew condition
- bond condition
- judicial monitoring condition
- electronic monitoring condition[183]

The conditions of the new order should be able to be tailored to the individual offender and include requirements that address underlying causes of their behaviour as well as prohibitions on contact with certain individuals or attendance at certain places.

The order conditions should be required to be relevant to the prevention of harm to others (not confined to the victim and their family but also potential future victims and the community at large) or the rehabilitation needs of the offender.

Flexibility as to the conditions the court can order will enable the supervision and rehabilitation order to be applied to offenders who present varying levels of risk and the conditions of the order should be scaled up or down in intensity according to the needs of the individual offender and accordingly could be made in addition to a Domestic Violence Order.

Similar to what is provided for control orders at section 161Z of the Penalties and Sentences Act for control orders the court should be required to explain, or cause to be explained, to the offender conditions of the order and what the consequences of non-compliance will be.

Variation and discharge of the new orders

There should be a provision which addresses the variation or discharge of a post-conviction supervision and rehabilitation order, like there is for CBOs in England and Wales.[184] This section should enable the order to be varied or discharged by the court that made the original order on the application of the offender or the prosecution.

Duration of the new order

As discussed in chapter 3.4, the Taskforce heard that for perpetrators who have used violence and abuse their whole lives, shifting behaviour needs intense and sustained intervention.[185] The duration of the new order should be for a minimum of 2 years, up to 5 years. There are a number of reasons for an order with this length of time. There is a strong need to protect the victim and community from the perpetrator. Having the perpetrator engage in a treatment program/s for a period of time, increases victim safety. It is also important that the perpetrator is engaged with the order for a sufficient length of time, to enable them to participate in programs that result in long term behavioural change. In Queensland, control orders for serious and organised crime activities have this duration period under section 161ZB of the Penalties and Sentences Act. In England Wales, section 334 of the Sentencing Act outlines that the duration of the order for adults is a minimum of two years, up to an indefinite period; and for a person under the age of 18 it is between one and three years.[186]

The order should take effect on the day that it is imposed by the court. If the offender is in custody for a period of time, the order should commence the day that offender is released from custody. This is in line with the way that control orders operate in Queensland.[187]

Contravention of the new order

It should be an indictable offence to contravene the order. The maximum penalty for a first offence should be punishable by maximum penalty of 3 years imprisonment and 5 years imprisonment for second and subsequent offences. In England and Wales, a person guilty of an offence which breaches a CBO is liable on conviction on indictment to imprisonment for a maximum of 5 years, or a fine, or both.[188] If a person contravenes an order, they should return to court and be dealt with for the breach proceedings.

Timing

A draft Bill should be released as a consultation draft for a period of at least three months before it is introduced into Parliament. This consultation should include legal, corrective services, domestic and family violence, and Aboriginal and Torres Strait Islander stakeholders, and people with lived experience of domestic and family violence.

It is recommended that these amendments should be introduced into Parliament in 2023 and commence, subject to passage on a date set in 2024, that is, at least 15 months after debate and passage to enable implementation activities to be undertaken and sufficient services and supports to be in place before commencement.

Actions required between passage of the legislation and commencement of the legislation

The implementation of this option will require a very significant additional investment of resources. It is anticipated that Queensland Corrective Services would be largely responsible for the supervision of offenders sentenced to the supervision and rehabilitation order given their experience in managing parole and probation programs with QPS assisting with enforcement of contraventions of the new order.

The Queensland Government will need to support the ongoing supervision of offenders in the community and enforce compliance with the post-conviction orders. As the Queensland Corrective Service submission notes:

> A whole-of-government commitment to providing the required services and wrap-around supports to DFV perpetrators and aggrieved persons (including services relating to alcohol and other drugs, housing, and other community-based services that assist reintegration) would be required in order to achieve the desired outcomes and may also require additional resourcing for relevant agencies.[189]

The Director of Public Prosecutions' 'Director's Guidelines' should be updated to include the procedure for making an application for a post-conviction civil supervision and rehabilitation order (recommendation 69).

Lawyers should undergo training with respect to the new order. Judicial officers should consider undertaking professional development concerning the new order.

Those responsible for updating the DFVP Act Benchbook and the recommended new Domestic and Family benchbook for the District and Supreme Courts should considering including extensive guidance to judicial officers about when the making of the supervision and rehabilitation order is appropriate. The Chief Justice, the Chief Judge and the Chief Magistrate may wish to consider issuing practising directions that will assist lawyers to provide the material they need in a way that will best assist the court.

Human rights considerations

There are differing opinions about whether post-conviction supervision monitoring schemes are compatible with human rights. In an article about post-sentence supervision and preventative detention of sex offenders, Winks noted some of the criticisms:

> Post-sentence preventative detention has been said to violate the rights to liberty, freedom of movement, and humane treatment in custody in a way that is difficult to justify and requires strict procedural safeguards (McSherry, Roesch, and Hart 2014; Keyzer and McSherry 2015; Tulich 2015). Post-sentence supervision has also been criticised as limiting the right to privacy and reputation under international law (Perlin and Cucolo 2020).[190]

The submission from Queensland Corrective Services also addresses this, noting:

> As with all community-based supervision models, this proposal would limit the right to freedom of movement. However, as with other community-based supervision schemes, this limitation could be justified if it will protect the human rights of other persons.[191]

In Queensland, Winks observes that the Human Rights Act is yet to be considered in relation to the *Dangerous Prisoners (Sexual Offenders) Act 2003*.[192] However, it is noted that Victorian courts have not found post-conviction supervision to be incompatible with human rights legislation. [193] Further, in New Zealand, while 'courts have found similar laws to be incompatible, this has not invalidated those laws or prevented them from significantly limited prisoners' human rights.'[194]

Rights promoted

In respect of the proposed post-conviction civil supervision and rehabilitation order and its compatibility with the Human Rights Act, it is suggested that the following sections are engaged and promoted by this recommendation:

- Right of life (section 16)
- Protection from torture and cruel, inhuman or degrading treatment (section 17)
- Protection of families and children (section 26)

The purpose of the introduction of the supervision and rehabilitation order is to stop the behaviour of serous domestic and family violence offenders and address the underlying causes of it, thereby preventing it from occurring in the future. This order is beneficial as it requires offenders convicted of domestic violence offences to engage with effective perpetrator programs of sufficient length, depth and quality to effect deep behavioural change. Supervision and rehabilitation order will be able to impose individually tailored conditions such as contact with corrections and case management, as well as participation in treatment and intervention programs. They would also provide appropriate sanctions for non-compliance including return to custody. This order therefore promotes sections 16, 17 and 26 of the Human Rights Act as it improves the safety of women and children, including assisting with protection women and children from serial domestic abusers.

Rights limited

It is acknowledged that the following human rights are potentially engaged and limited by this recommendation:

- Freedom of movement (section 19)
- Right to liberty and security of person (section 29)
- Privacy and reputation (section 25)
- Cultural rights – Aboriginal and Torres Strait Islander peoples (section 28)

The implementation of a post-conviction civil supervision and rehabilitation order will affect human rights relating to a person's liberty, as it enables longer term case management and intensive supervision of a perpetrator. A perpetrator may also be registered in the new domestic and family violence non-publicly disclosable register (recommendation 81). The rights affected may include the freedom to move freely including entering and leaving Queensland and choosing where to live; the right to liberty and security of a person; privacy and reputation; and cultural rights of an Aboriginal and Torres Strait Islander person. As noted above Section 28 (Cultural rights – Aboriginal and Torres Strait Islander peoples) requires the protection and promotion of Aboriginal and Torres Strait Islander peoples' right to practise, maintain and develop their culture and not be subjected to forced assimilation or destruction of their culture. It is acknowledged that conditions in the supervision and rehabilitation orders may impact on the kinship ties (section 28(c)) of Aboriginal and Torres Strait Islander people if they prohibit them from associating or contacting people within their community. In respect of the right to liberty and security of a person and privacy and reputation, these rights are only limited when they are unlawfully or arbitrarily interfered with. This recommendation relates an order which will be incorporated into Queensland law and imposed by courts only after considering a test. Therefore, the order is not expected to limit those rights.

Limitations are justified

Section 13 outlines that '[a] human right may be subject under law only to reasonable limits that can be demonstrably justified in a free and democratic society based on human dignity, equality and freedom.'[195] Therefore, a human right can be limited under the act if the limits are reasonable, can be justified, and are also acceptable under international human right law. The section outlines a number of factors that may be relevant when making this determination.[196]

This order will have a similar purpose to the CBOs in England and Wales that it have victim safety as key priority. In respect of CBOs, it has been observed that '[t]he potential impact on the victim or victims will be at the heart of the consideration of the terms of the CBO. Stopping the anti-social behaviour is for the benefit of the victim and thinking about how the terms of the order will impact on the victim is critical.'[197] Domestic and family violence is serious conduct that falls under the definition of torture and cruel, inhuman or degrading treatment under the Act.[198] The rehabilitation of a perpetrator also has wider benefits to the community. It may prevent recidivist behaviour and enable perpetrators to become more valuable and contributing members of society.

The Taskforce would expect a court making a supervision and rehabilitation order to be conscious of the kinship ties of Aboriginal and Torres Strait Islander people and notes that recommended improvements to training for lawyers should result in effective submissions being made on this issue. The importance of rights concerning a person's liberty, privacy and reputation is acknowledged. However, it is suggested that the importance of preserving the human rights of victims of domestic and family violence and the rehabilitation benefits of the perpetrator and the wider community, outweighs limitations on those rights.

Evaluation

This new order is intended to increase safety for victims of domestic and family violence by placing relevant restrictions on perpetrators movements and activities but also by providing avenues for perpetrators to address the causes of their offending in the community.

A review of the operation of the amendments to create a new order should commence as soon as possible five years from their commencement to ensure they are operating as intended.

Agencies should ensure data and information is collected in an extractable form before the commencement of the amendments to inform this review.

The review of the operation of the amendments should consider the impact and outcomes for victims including in relation to their safety and perpetrator accountability.

New standalone legislation

A register of serious and high-risk domestic and family violence offenders

On the basis of what the Taskforce has heard about coercive control being a key indicator of lethality, it is necessary to consider options that provide women and children with greater protection from coercively controlling perpetrators whose history of offending is serious and repeated across multiple intimate personal relationships and who continue to pose a serious risk to the community. This is particularly so given the DFVDRAB has identified these characteristics as being an almost universal feature of reviewed domestic and family violence deaths.[199] As noted above, the DFVDRAB has recommended the Queensland Government consider civil supervision and monitoring schemes for recidivist perpetrators including those that exist in Queensland such as for those convicted of serious sexual offences.[200]

In chapter 1.6, the Taskforce found that the creation of a non-disclosable register for limited sharing of information between police and certain government and non-government entities provides opportunities for targeted monitoring and intervention of high-risk repeat domestic violence offenders. The Taskforce established that having a register that is not publicly disclosable will minimise the potential for misuse of information.

The Taskforce notes existing efforts by the QPS to monitor serial domestic violence offenders under Operations Sierra Alessa and Tango Alessa[201], discussed in chapter 3.5. However, a legislative register, established through a court order, has the potential to embed a more formalised and transparent mechanism to monitor repeat high risk offenders, supported by links to perpetrator programs and the recommended post-conviction civil supervision and rehabilitation order (recommendation 80). A legislative mechanism also enables the inclusion of safeguards.

Establishing the register simultaneously with the supervision and rehabilitation order offers two levels of protection to victims and prospective victims and maximises 'eyes on the perpetrator' in serious high-risk cases. The register can be distinguished from the post-conviction civil supervision and rehabilitation order in that it will continue to provide the community with protection long after an offender has completed their sentence and can provide a response to risk behaviours in perpetrators

that emerge after their release into the community. Post-conviction civil supervision and rehabilitation orders, on the other hand, are made at the time of sentencing.

Recommendation 81

The Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence progress new standalone legislation to establish a non-publicly disclosable register of serious and high-risk domestic and family violence offenders to be jointly administered by the Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence and the Minister for Police and Corrective Services and Minister for Fire and Emergency Services.

The new register will have a similar purpose to the *Child Protection Offender Register established by the Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004* including to monitor an offender to reduce the likelihood of reoffending and support the investigation and prosecution of any future offences that the perpetrator may commit.

A court will be able to make an order that a person be included in the register when:

- the offender is convicted of an offence including:
    - the new coercive control offence (recommendation 78)
    - an offence of choking, suffocation or strangulation in a domestic setting under section 315A of the Criminal Code, or
    - any other domestic violence offence, and
- the court is satisfied that the offender has a prior conviction for one of the above offences against either the same or another victim, and
- the court is satisfied that making the order will help to protect the victim or victims in the future.

A court will also be able to make an offender prohibition order in circumstances where an offender on the register engages in concerning conduct which poses a risk to the safety or wellbeing of 1 or more individuals with which the offender has been in a relevant relationship within the meaning of the *Domestic and Family Violence Protection Act 2012*.

Legislation to establish the new register of serious and high-risk domestic and family violence offenders should be introduced into Parliament in 2023, following the implementation of essential service system reforms recommended by the Taskforce as part of this report. The Bill including the register should be released as a consultation draft for at least three months before it is introduced into Parliament. This consultation should include legal, domestic and family violence, and Aboriginal and Torres Strait Islander stakeholders, and people with lived experience of domestic and family violence.

The new register of serious and high-risk domestic and family violence offenders should commence, subject to passage of the Bill, on a set date in 2024 that is at least 15 months after debate and passage to enable implementation activities to be undertaken and enable sufficient services and supports to be in place before commencement. This should be the same date as the commencement of the new coercive control offence.

Recommendation 82

The Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence, as part of legislation creating the register of serious and high-risk domestic and family violence offenders, will provide for limited sharing of information about an offender in the register.

This should be modelled on the information sharing provisions in the *Domestic and Family Violence Protection Act 2012.* It will enable the Queensland Police Service to share information about a person on the register with certain prescribed entities or specialist domestic and family violence service providers, including as part of an integrated service system response, while otherwise maintaining the confidentiality of the information, when:

- police believe that a person fears or is experiencing domestic violence and
- the information may help the entity receiving the information to assess whether there is a serious threat to the person's life, health or safety because of the domestic violence.

The prescribed entity or specialist domestic and family violence service provider receiving the information can use it to:

- assess whether there is a serious threat to a person's life, health or safety because of domestic violence, and
- lessen or prevent a serious threat to a person's life, health or safety because of domestic violence.

Recommendation 83

The Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence and the Minister for Police and Corrective Services and Minister for Fire and Emergency Services advocate with the Federal Government and state and territory governments for the creation of a national register of serious and high-risk domestic and family violence offenders, based on the Queensland model.

A national model should incorporate the same protections and safeguards for the sharing of information, with necessary adaptions, as recommended by the Taskforce (recommendation 81).

Implementation

The intent of the recommended register of serious and high-risk domestic and family violence offenders (the register) is to monitor individuals who continue to perpetrate domestic violence offending over multiple relationships with different partners, and people who continue to repeatedly engage in domestic and family violence after orders have been made. These repeat domestic violence offenders are considered by the Taskforce to be high risk. It is important that such high-risk offenders can be monitored and actively case managed to keep victims safe and prevent future violent offending.

Like the Child Protection Offender Register[202] established under the *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004* (CPOROPO Act), the register should not be punitive.[203] Rather, the register should seek to protect existing victims and potential victims by reducing the likelihood that an offender will reoffend and to facilitate the investigation and prosecution of any future domestic violence offences that they may commit.[204] The register is intended to place reporting obligations on offenders who repeatedly commit domestic violence offences.

Who should be included on the register?

Although the Taskforce is recommending a register with a similar purpose to the Child Protection Offender Register, there are some differences in the register recommended by the Taskforce. These are considered appropriate due to the different nature of domestic violence offending and the diverse risk levels of domestic violence offenders.

One key difference is the requirement for a court to order that a person to be included on the register. Under the CPOROPO Act, individuals sentenced for a large range of prescribed offences against children are automatically included on the register.[205] The court can also make 'offender reporting orders' on its own initiative or on the application of the prosecution for non-prescribed offences in other limited circumstances including if the court is satisfied that the person poses a risk to the lives or the sexual safety of one or more children, or of children generally.[206]

The Taskforce envisages that a person will only be included on the recommended register through a court order. Whilst retaining the ultimate discretion about whether to make an order that a person be included on the register, a court will be required to consider making an order when:

- the offender is convicted of an offence including:
    - the new coercive control offence (recommendation 78)
    - an offence of choking, suffocation or strangulation in a domestic setting under section 315A of the Criminal Code, or
    - any other domestic violence offence, and
- the court is satisfied that the offender has a prior conviction for one of the above offences against either the same or another victim, and
- the court is satisfied that making the order will help to protect the victim, a child of the victim or potential victims in the future.

Consistent with principle 5 of the *Charter of youth justice principles* contained at schedule 1 of the *Youth Justice Act 1992* [207] the Taskforce recommends that the register should only apply to adults and to convictions recorded for offences committed when the person was an adult.

Placing the decision to include a person on the register in the hands of the court is considered an important safeguard because it avoids the automatic inclusion of individuals on the register who may not pose an ongoing threat to victims. Court discretion enables consideration about whether a person is appropriate for inclusion on the register or reasonably able to meet the requirements of being on the register, such as where a person has a cognitive or physical disability.

The CPOROPO Act includes several safeguards to prevent reporting obligations from unduly criminalising or punishing offenders who face significant barriers to meeting those obligations. This includes safeguards providing the right to privacy and support when reporting,[208] special allowances for reporting by offenders with disability and remote offenders[209], safeguards for when a person including a person with disability has a reasonable excuse for failing to report[210], and safeguards for individuals to appeal their reporting obligations on mental health grounds.[211] Similar safeguards should be established for the register of serious and high-risk domestic and family violence offenders.

What should offenders be required to report?

The CPOROPO Act requires offenders who commit sexual or other prescribed serious offences against children to keep police informed of an extensive range of information including, amongst other things, their name, date of birth, residential details, details relating to any vehicle they own or drive, details of any social networking sites with which the offender registers or opens, details of telephone and internet accounts used or intended to be used by the reportable offender and details, if known, for any child with whom the offender has reportable contact.[212] This information is specific to the risk of future offending against children. Information required from serious high risk domestic violence offenders would be necessarily different to those required for child sexual offenders.

The Taskforce anticipates that all offenders should have to report standard personal information such as name, phone number, residential address and email address. Other information relevant to domestic violence risk may include who a person is living with, whether the person is in or has commenced a new intimate relationship, and whether or what perpetrator programs the person has attended. It is recommended that QPS work with the domestic and family violence sector during the development of the legislation to develop an understanding of reporting information that will be most relevant and useful to monitor risk of future offending for recidivist domestic and family violence offenders.

Under the CPOROPO Act reportable offenders, unless specifically exempted, are required to report to the Commissioner of Police a minimum of four times in each year.[213] Changes to personal details are also required to be reported within specified time periods (such as reporting seven days prior to leaving Queensland).[214] The Taskforce considers that similar timeframes and reporting frequencies are appropriate for serious domestic and family violence offenders.

How long should a person be on the register?

The importance of clarity on the length of time a person is on the register was raised by Legal Aid Queensland in their submission to the Taskforce.[215] The CPOROPO Act includes a tiered structure for reporting periods ranging from 5 years to life based on the number of offences and whether a person has committed further offences while being a reportable offender.[216] The Taskforce recommends that a similar tiered approach will be appropriate for the reporting periods for serious domestic violence offenders.

Access to and information sharing under the register

As discussed in chapter 1.6, a disclosable register (similar to a domestic violence disclosure scheme) would involve significant risks of vigilantism and privacy breaches. A disclosable register may also lull victims into a false sense of safety, or expose them to potential criticism if they choose to knowingly remain in a relationship with a person on the register, despite the psychological impacts of coercive control noted in chapter 1.1.

In its submission to the Taskforce, the Office of the Information Commissioner (OIC) noted a number of privacy issues with a potentially disclosable register, which extended to concerns about the privacy of victims:

> A register of serious domestic violence offenders contains highly sensitive personal information and has the potential to infringe not only on the privacy of the registered domestic violence offender but may also extend to any previous complainants or victims whose personal information may be captured.[217]

The OIC went on to say:

> it is critical that… a robust legislative framework is put in place expressly prescribing and limiting who can access information on the register and in what circumstances. Further, careful consideration needs to be given to the risks and unintended consequences of disclosure on the privacy and safety of the offender and any current or former domestic and family violence victims and their children, including the impacts of secondary use and disclosure.[218]

Access to the register itself will therefore need to be closely controlled, to avoid the potential for leaks and privacy breaches.[219] Responsibility for updating the register and receiving the report should lie with the QPS, as is the case with the Child Protection Offender Registry. QPS will have responsibility for monitoring the register and identifying whether reported information indicates a heightened risk. However, administrative responsibility for the legislation should be shared with DJAG given the provision for court ordered inclusion on the register.

While the Taskforce is not recommending a disclosable register, it is considered appropriate that information contained on the register be able to be shared with prescribed entities, consistent with existing information sharing provisions in the DFVP Act. The Taskforce recommends that the establishment of a register be supported by information sharing provisions and enable a clearer communication between prescribed entities about perpetrators who pose a high risk.

Effective information sharing provisions should be included in the legislation to establish the register. To safeguard the privacy of information contained on the register, an offence of knowingly and unlawfully sharing information under the register should also be included in the legislation.[220]

The CPOROPO Act also includes an information sharing framework designed to allow government and non-government agencies to give and receive information relative to a reportable offender.[221] Under that Act, the exchange of pertinent offender information is intended to reduce some of the impost on those departments who are responsible for the management of reportable offenders in the community.[222]

Offender prohibition orders

The CPOROPO Act provides an additional layer of community protection by allowing the Commissioner of Police to apply to the court for an offender prohibition order (OPO) in relation to a reportable offender who is reasonably believed to have engaged in 'concerning conduct'.[223] The Act defines concerning conduct to mean an act or omission, or a course of conduct, the nature or pattern of which poses a risk to the safety or wellbeing of 1 or more children, or of children generally. Concerning conduct is not restricted to unlawful behaviour but may include precursor or preparatory behaviours that lead to actual offences against children.[224]

An OPO is a civil order used to monitor the behaviour of relevant sexual offenders where that conduct poses a risk to the lives or sexual safety of one or more children or of children generally. It is an offence to fail to comply with an OPO, with a maximum penalty of 300 penalty units or five years' imprisonment.[225]

The court may make an OPO if satisfied, on the balance of probabilities, that:

- the respondent is a relevant sexual offender; and
- having regard to the nature or pattern of conduct engaged in by the respondent, the respondent poses an unacceptable risk to the lives or sexual safety of a child or children generally; and
- the making of the prohibition order will reduce the risk.[226]

Before making an OPO, the court must also consider a number of matters including the seriousness and period of the respondent's offending, the respondent's age, the respondent's circumstances, and the effect of the OPO sought on the respondent in comparison with the level of risk of the respondent committing a reportable offence against a child.[227]

Replicating the ability to seek an OPO for serious domestic violence offenders would enable the Commissioner or Police to apply to the court for an OPO in circumstances where an offender engages in concerning conduct such as an act or omission, or a course of conduct, the nature or pattern of which poses a risk to the safety or wellbeing of 1 or more people in a relevant relationship with the offender. Such order would provide additional protection to victims, their children and families.

An OPO under the CPOROPO Act may place limitations upon a relevant offender by requiring the offender to do particular things, such as attend psychological treatment or reside at a particular residence.[228] It may also require an offender to refrain from doing particular things, such as not contacting specific people, attending certain locations or engaging in stated behaviour.[229] For serious domestic violence offenders, an OPO could require them to attend a perpetrator program or an alcohol and drug service. It could also restrict them from contacting past victims or their family, or from attending a place where a past victim lives, works or frequents.

Should the register apply retrospectively?

The Child Protection Offender Register, when established, applied retrospectively to capture offences against children committed prior to the establishment of the register. This was justified on the basis of the protective nature of the register, and the conceptualisation of reporting requirements not being punishment.[230] In order to capture repeat serious domestic and family violence offenders, the establishment of the register should enable an order for inclusion on the register to be made where the 'previous conviction' occurred prior to the establishment of the register. However, the subsequent offence which triggers consideration for inclusion on the register should be required to have occurred subsequent to commencement. This is considered important because while the register is not intended to be punitive in nature, its establishment may act as a deterrent for individuals with past convictions from offending again or encourage them to take positive steps to address the causes of their offending behaviour.

The potential for a National register

The CPOROPO Act forms the Queensland component of a national child protection registration scheme aimed at managing reportable offenders to reduce the likelihood that they will re-offend.[231] The National Child Offender System (NCOS) enables police to uphold child protection legislation in their state and territory, to record and share child offender information, and to assist police in the investigation and prosecution of any future offences offenders may commit.[232]

There have been frequent calls for various iterations of national domestic violence registers and databases.[233] As noted in chapter 1.6, the National Domestic Violence Order Scheme currently operates to make Domestic Violence Orders issued in any Australian state or territory automatically recognised and enforceable nationwide.[234] Noting challenges in accessing or identifying orders under the National Domestic Violence Order Scheme, an Australian Parliamentary Committee inquiry recently recommended the 'Australian Government, in collaboration with state and territory governments, implement a national electronic database of Domestic Violence Orders to support the National Domestic Violence Order Scheme.'[235]

To date, this national discussion has centred around the need for an appropriate register of civil orders and breaches of those orders. However, the Taskforce considers that information about the criminal domestic violence offending of repeat domestic violence offenders should also be shared between police forces and other relevant bodies. Information about whether a person is a high-risk domestic violence offender would also be critical information for family law courts considering parenting or property orders. As such, enabling this information to be shared under the planned National Framework for Information Sharing between the Family Law and Family Violence and Child Protection Systems (discussed in chapter 1.6) would protect victims and their children navigating the family law jurisdiction.

Timing

It is recommended that these amendments should be introduced into Parliament in 2023 and commence, subject to passage on a set date in 2024. This will allow adequate time for the register to be established, and for the public to be made aware of the register. Raising awareness will put potential repeat offenders on notice that any future offending may lead to reporting requirements.

The Taskforce is recommending that the Bill to establish the register be released as a consultation draft for at least three months before it is introduced into Parliament. This period is necessary to ensure any practical, legislative, or human rights issues with the draft Bill are identified early and can be resolved collaboratively. Consultation on the draft Bill should include legal, domestic and family violence, and Aboriginal and Torres Strait Islander stakeholders, and people with lived experience of domestic and family violence.

Actions required between passage of the legislation and commencement of the legislation

The operational elements of the register will need to be established within the QPS prior to the commencement of legislation to establish the register. This may involve replicating what is in place for the Child Protection Offender Registry within the Child Abuse and Sexual Crime Group. The Taskforce considers it will be appropriate for a new, purpose build registry to be established within the QPS' Domestic, Family Violence and Vulnerable Persons Command.

Introducing legislation to establish the register in 2023 should allow for the necessary training to be undertaken by lawyers, service providers and police. Judicial officers should also consider undertaking professional development concerning the register.

Delayed commencement of the register will also provide time for perpetrator programs to be expanded to meet the potential increased demand from offenders who may be ordered to attend under an OPO.

The Taskforce notes that reporting requirements are resource intensive, and that it will take time to bring services and workforce capability and capacity up to speed to ensure effective roll-out of the register. This is why the Taskforce is recommending a long lead-in time for the register.

There are risks that directing funding towards a register will divert necessary funding away from primary prevention, victim services and other important service delivery priorities.[236] This is a valid concern, as operating the existing Child Protection Offender Register is highly resource intensive. The Taskforce is hopeful that there will be opportunities in efficiencies in establishment costs if the register operates similarly to existing processes. Further, the Taskforce anticipates that the number of offenders on a register requiring a court order for inclusion will be significantly lower.

Similar to the narrative around QPS Operations Sierra Alessa and Tango Alessa, offenders on the register should feel as though QPS is watching them and will take action should they reoffend.[237]

However it is important that awareness raising around the register focusses on the rehabilitative and accountability aspects of the register, rather than suggesting punitive or shame-based implications.

The potential unintended consequences that shame around inclusion on the register may cause was noted by Legal Aid Queensland:

> Though the register is not meant to be public, the potential for stigma to be associated with those on a register could have the unintended consequence that the resentment created might actually lead to further offending.[238]

Human rights considerations

Rights promoted

The register of serious and high-risk domestic and family violence offenders will engage and promote the following rights:

- Right to life (section 16)
- Protection from torture and cruel, inhuman or degrading treatment (section 17)
- Protection of families and children (section 26)

The purpose of the introduction of the register is to protect existing victims and potential victims by reducing the likelihood that an offender will reoffend and to facilitate the investigation and prosecution of any future domestic violence offences that they may commit. This will ideally prevent future domestic and family violence and achieve maximum 'eyes on the perpetrator'. The human rights promoted when victims are protected from domestic and family violence and coercive control are discussed in chapter 2.2. Monitoring of perpetrators promotes sections 16, 17 and 26 of the Human Rights Act by protecting the safety of existing and potential victims and their children.

Rights limited

The register of serious and high-risk domestic and family violence offenders, and associated prohibition orders, will also engage and limit a number of human rights of offenders, including the right to privacy and reputation (section 25), freedom of expression (section 21), and freedom of movement (section 19). There may also be arguments that the register and prohibition orders limit the right not to be tried or punished more than once (section 34) and the right to protection against retrospective criminal laws (section 35).

In relation to the right to privacy and reputation, section 25 of the Human Rights Act states that a person's privacy, family, home or correspondence must not be unlawfully or arbitrarily interfered with, and their reputation must not be unlawfully attacked. Reportable offender laws limit the right to privacy by requiring an offender to report and provide personal information to police. The right to reputation may be limited where information that a person is on the register is shared with other agencies or services.

As noted by the Office of the Information Commissioner, the register may also limit the right to privacy of previous complainants or victims whose personal information may be captured on the register.[239]

The right to freedom of expression protects the right of all persons to seek, receive and express information and ideas. The register and prohibition orders will limit this right by compelling an offender to provide information, and by restricting their access to information (e.g. social media if this is part of an order).[240] Similarly, the right to freedom of movement protects individual rights to move freely within Queensland, enter or leave Queensland and choose where they will live. The register and prohibition orders will limit this right where they require a person to remain in a certain location or within Queensland to report, where a person must seek permission or notify their

intention to leave Queensland, or where a prohibition order restricts where a person may live, work or visit.

The right not to be tried or punished more than once protects individuals from 'double jeopardy' or being punished a second time for the same offence. There may be an argument that the register and prohibition order limit the right not to be tried or punished more than once, by imposing requirements and restrictions in addition to a served sentence. Victorian case law has found that professional disciplinary proceedings in addition to criminal prosecution against a psychologist did not limit the right because the aim of the disciplinary proceedings was 'primarily to protect the public, and not to punish the practitioner'.[241] Similarly, the Queensland Court of Appeal has found that the purpose of a previous iteration of reportable offender register was not to impose a form of punishment but rather to protect a vulnerable part of the community.[242] As noted above, the purpose of the register under the CPOROPA Act is not to punish, but to protect. In this way, the right may not be limited if the nature of the register and prohibition orders are not considered to be punitive.

The right to protection against retrospective criminal laws may also be limited by the register if applied to offending which occurred prior to the commencement of the legislation establishing the register. However, similar to the above consideration, conceptualising the register and prohibition orders not as punishment, but as protection, may result in this right not being limited. The Explanatory Notes to the CPOROPO Act state, 'the retrospective application of registration schemes has been judicially tested in the United States of America, with the United Kingdom scheme considered by the European Commission of Human Rights. In each case, the registration requirements were found not to impose additional punishment.'[243]

Noting that the right to protection against retrospective criminal laws and the right not to be tried or punished more than once have not been considered to be limited in relation to Queensland's existing offender reporting mechanisms, the potential limitation of these rights will not be further considered below. However, as the CPOROPO Act was established prior to the commencement of the Human Rights Act, and has not been tested against the Act, further consideration by the Queensland Government of whether these rights are limited may be required.

Limitations are justified

Section 13 of the Human Rights Act provides that '[a] human right may be subject under law only to reasonable limits that can be demonstrably justified in a free and democratic society based on human dignity, equality and freedom.' As noted above, the purpose of limiting the rights to privacy, freedom of expression, and freedom of movement through the establishment of the register is to protect existing victims and potential victims by reducing the likelihood that an offender will reoffend. Noting the findings of the 2019-20 DFVDRAB report, including the risk of lethality associated with repeat domestic violence offending, this is considered to be a sufficient and potentially life-saving justification for the limitations identified.

The results of the QPS Operations Sierra Alessa and Tango Alessa, which provided opportunities for QPS officers to monitor prolific offenders, indicate that the register could prove to be an effective means of helping to prevent future offending. Following the two-month Operation Sierra Alessa pilot, the operation findings revealed a 56% reduction in DFV-related charges.[244] For Operation Tango Alessa, which ran from March-May 2021, an evaluation of the target cohort's offending during and post-operation identified a 50 per cent decrease in domestic and family violence offences.[245] These results indicate a likelihood that limiting rights through the establishment of a register will help to achieve the purpose of protecting victims.

The Taskforce does not consider that a less restrictive alternative to monitor repeat offenders is available or effective. Unlike the CPOROPO Act, the register recommended by the Taskforce is not 'automatic', and requiring a court order for inclusion on the register ensures that orders will only be made for high-risk offenders where the court is satisfied that making the order will help to protect

the victim or victims in the future. These requirements reduce the limitation and the potential that some offenders who are not in fact high-risk will be unintentionally captured.

Enabling inclusion on the register, reporting requirements, and prohibition orders to be targeted to the specific risks posed by an individual offender will also reduce the limitations. Restrictions on freedom of movement will also be reduced should the register enable online reporting (as the existing Child Protection Offender Register does) so that offenders are not required to report to a particular police station unless considered necessary.

If existing safeguards in the CPOROPO Act are replicated for the register, this will reduce the limitation on the right to privacy of both offenders and victims. Replicable safeguards protecting the right to privacy include that:

- the register is confidential
- access to the register is restricted to authorised persons and information can only be disclosed to authorised persons (for the register this will include information sharing with prescribed entities)
- offences apply for unauthorised disclosures.

The Taskforce considers that the importance of preventing future domestic and family violence from occurring, thereby protecting the rights of existing and potential victims, is greater than the importance of protecting the rights of serious high-risk offenders in this case. This position takes into account the nature and extent of the limitation, which will only be imposed to the extent considered necessary by a court making the order.

Evaluation

The intention of the recommended register is to:

- increase victim and community safety by providing for greater monitoring and supervision of recidivist domestic and family violence offenders in the community
- increase opportunities for intervention with recidivist perpetrators to deescalate dangerous behaviour when there are indicators that they are at a heightened risk of committing a further domestic violence offence
- facilitate greater information sharing between agencies both in Queensland and across Australia of recidivist high risk domestic and family violence offenders with aim to providing greater safety to current and potential future victims

Consistent with all legislative changes recommended in this chapter, legislation to establish the register should include a five year statutory review to ensure effectiveness.

As Queensland will be the first state to operationalise a register for high-risk domestic violence offenders based on the CPOROPO Act, the gathering of evidence about whether the register is effective should be an early priority.

A review of the operation of the amendments to create a new register should commence as soon as possible five years from their commencement to ensure they are operating as intended.

Agencies should ensure data and information is collected in an extractable form before the commencement of the amendments to inform this review.

The review of the operation of the amendments should consider the impact and outcomes for victims including in relation to their safety and perpetrator accountability.

As noted in chapter 1.6, the Taskforce received submissions from some individuals and stakeholders who supported a disclosable scheme. As already outlined in this report, the Taskforce is not satisfied, on balance that such a scheme is justifiable. However, the creation of a non-disclosable register may result in the QPS having access to information about people on the register that leads to an identification of a serious risk of harm for a particular known victim. In most circumstances, police would be able to respond in other ways to such a risk.

The five year statutory review of the legislative reforms implemented by the Queensland Government in response to this report should include consideration of whether there have been circumstances when police have not been able to respond in relation to a serious risk of harm to a particular known victim, which has been identified as a result of information about a person on the register, and if so, how to respond to this risk.

Statutory review

For each legislative amendment recommended in this chapter and chapter 3.8 the Taskforce has recommended a review five years after the commencement of the amendment and has also made suggestions for data capture that should be put to into place to measure whether the amendments have achieved their intended purposes.

The Taskforce firmly believes that monitoring and evaluation are essential to ensuring the success of this legislative package. The Taskforce can only make recommendations on the facts before it now, and the Taskforce is very aware that there may be issues that arise when this legislation is implemented and/or impacts of this legislation that it cannot possibly anticipate. Monitoring and evaluation will assist the Queensland Government to know as soon as possible when further amendments need to be made or extra resources are required to ensure the legislation can achieve its intended purpose.

Recommendation 84
The Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence include statutory review requirements for all of the legislative reforms included in this chapter of the Taskforce's report which are intended to form part of a second stage of reform. This will require the operation of each of the proposed amendments to be reviewed, as soon as possible, five years from the commencement of the provisions to consider whether the amendments are operating as intended. The minister/s responsible for the administration of the *Domestic and Family Violence Protection Act 2012* and the Criminal Code to table in the Parliament of Queensland a report about the outcome of the independent review no later than seven years after the commencement of the legislation.

Implementation

The Taskforce recommends that a provision for a statutory review of all the recommendations for legislative amendment contained in this chapter be inserted into the DFVP Act. The provision should provide that the Minister/s responsible for the administration of the Criminal Code and the DFVPA should direct an independent statutory review of the amendments to ensure they are achieving their intended purpose to commence as soon as possible five years after the commencement of this second stage of legislative reform in 2024, that is, in accordance with the Taskforce's four-phase plan, the review should commence in 2029.

The provisions should further require the Minister/s responsible for the administration of the DFVP Act and the Criminal Code to table in the Parliament of Queensland a report about the outcome of the independent review no later than seven years after the commencement of the legislation, that is in 2031.

This five year review of the operation of the legislative reforms in this chapter should consider the outcomes achieved for victims, including victim safety, and for perpetrators with a particular focus on impacts for Aboriginal and Torres Strait Islander peoples. This should include whether the legislation has been implemented in a way that is consistent with the National Agreement on Closing the Gap, as discussed in Chapter 2.2.

The review of the operation of the legislative amendments should form part of the overall monitoring and evaluation of outcomes across the justice and service systems. The review should include consideration of whether additional service system reform is required to support the operation of the legislative provisions to achieve better outcomes.

The Taskforce does not consider that the creation of this statutory review will limit any human rights under the Human Rights Act.

Conclusion

The Taskforce's recommendations for legislative reform in this chapter reflect what we have heard about:

- the need for more early points of intervention for perpetrators of domestic and family violence including coercive control
- the absence of a single criminal offence in Queensland that the holds a perpetrator accountable for the entire spectrum of harm caused to a victim by coercive control
- the need for there to be more supervised case management of high-risk perpetrators of domestic and family violence including coercive control in the community

It is vital that these amendments are supported by investment from government in improved service system responses (chapter 3.3) expanded perpetrator programs (chapter 3.4), training of police (chapter 3.5), training of lawyers and judicial officers (chapter 3.6) and a comprehensive community education program (chapter 3.1) and primary prevention program (chapter 3.2). Without concomitant investment in these areas there will be insufficient foundation to ground the success of the amendments recommended in this chapter.

In the following chapter, the Taskforce outlines its recommendations for the monitoring and evaluation of all the recommendations in this report. The recommendation for a statutory review of all legislation is an essential element of that plan.

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[178] *Crimes (Serious Crime Prevention Orders) Act 2016* (NSW).

[179] *Crimes (Serious Crime Prevention Orders) Act 2016* (NSW) s 5.

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[205] *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004* (Qld), ss 5, 9, Schedule 1.

[206] *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004* (Qld), s 13.

[207] Principle 5 states: '*If a child commits an offence, the child should be treated in a way that diverts the child from the courts' criminal justice system, unless the nature of the offence and the child's criminal history indicate that a proceeding for the offence should be started'*

[208] *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004* (Qld) s 27.

[209] *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004* (Qld) s 26(4) and (5), s 33.

[210] *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004* (Qld) s 50.

[211] *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004* (Qld) Division 10, s 67C.

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[213] Reporting months defined under the *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004* (Qld), Schedule 5 to include February, May, August and November.

[214] For example, *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004* (Qld) s 20.
[215] Legal Aid Queensland submission, 96.
[216] *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004* (Qld) s 36.
[217] Office of the Information Commissioner Queensland submission, 1.
[218] Office of the Information Commissioner Queensland submission, 4.
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[220] See, for example, *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004* (Qld) s 51C; *Domestic and Family Violence Protection Act 2012* (Qld) s 169K.
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[223] *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004* (Qld), s 13A.
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[242] *Queensland Court of Appeal in R v C* [2002] QCA 156; Child Protection (Offender Reporting) Bill 2004, Explanatory Note, 2.
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This artwork as a whole represents the journey we must go on as a community to protect and better the lives of women and girls and make the world a fairer place for them.

It represents the mountains we must climb, and the **perseverance and determination** it takes to make this a reality.

Part 4

Perseverance and determination

In part 4, the Taskforce reminds the Queensland Government and community that system reform is not a box-ticking exercise, and will take perseverance and determination.

The focus of all reform should be whether it is delivering outcomes that better protect women and girls. In part 4, the Taskforce makes recommendations about how reform should be governed, measured and evaluated to make this a reality.

Chapter 4.1

Monitoring, evaluation and implementation governance

The Taskforce's report marks the second major review of the domestic and family violence system in Queensland in less than seven years. The Taskforce acknowledges the extensive reform that has taken place since the landmark *Not Now, Not Ever* report was released in February 2015. This Taskforce's report focuses on coercive control and improvements required across the criminal justice system and reflects the next stage of work required by the government, service providers, professionals, and the community itself to end domestic and family violence. Rather than actions and initiatives, the implementation of this report requires a focus on outcomes. This chapter proposes a robust governance framework to underpin accountability during implementation and a clear focus on outcomes for victims, their children, and perpetrators, as well as service system integration and coordination.

'[it] was the first time I felt validated and heard and, understood for being so devastated and vulnerable ... This support changed my life' [1]

This chapter discusses and makes recommendations about the monitoring and evaluation of impacts and outcomes across the whole-of-government response to domestic and family violence, including the implementation of the recommendations in this report. The Taskforce recommends building up existing frameworks for evaluating and measuring outcomes to develop and implement an overarching monitoring and evaluation framework.

The Taskforce also discusses the critical need to build capacity and capability across government and non-government agencies to improve the collection and analysis of relevant data. This will inform the monitoring and evaluation of impacts and outcomes, as well as strategic investment and the delivery of value for money across the system.

Finally, this chapter makes recommendations for governance arrangements that will ensure the Taskforce recommendations are fully implemented and outcomes are achieved. These recommended governance arrangements recognise the cross-portfolio nature of the response to domestic and family violence. They also recognise the need for collaborative effort and resources to ensure the benefits of legislative reform against coercive control are realised and risks are managed.

Measuring success, learning from mistakes, and monitoring for unintended consequences

Throughout this report, the Taskforce has had a clear focus on the impacts and outcomes sought in individual recommendations and as a package of reform to support legislative changes to address coercive control. The Taskforce heard across the submissions it received and the consultation it undertook that there are real concerns in the community about the potential risks associated with these reforms, including the creation of a new offence. These concerns are understandable given the experiences of victims reflected in the submissions received by the Taskforce.

These experiences demonstrate that some victims of domestic and family violence, despite the good intent and effort of many, continue to have negative experiences and confront barriers that prevent them from being safe. In developing the four-phase plan (chapter 2.3), the Taskforce has carefully considered the legislative and systemic reforms that are required to ready the system for the implementation of criminal justice legislative reforms. It is important that these readiness activities, such as training for police, lawyers, and judicial officers, are delivered and make a difference before legislative changes to create a new offence commence. Otherwise, the risks associated with legislative reform that the Taskforce has heard about so clearly in submissions and during consultation will not be avoided and the benefits of legislative reform will not be realised.

Having robust mechanisms to measure and monitor the impact of reforms to implement the Taskforce's recommendations will enable government, service providers, and professionals to know what is working, what isn't, what changes have occurred as a result of the reform, and how those changes have occurred. As implementation progresses, knowing which actions and reforms have had the intended impact (and which have not) will help determine whether adjustments to the approach are needed.

Measuring and monitoring impacts and outcomes assures government that resources invested in the system are effective and efficient and deliver value for money.

There is a tendency for the implementation of recommendations made by taskforces and inquiries to be dominated by a focus on what activities have been undertaken and what recommendations have been completed, rather than on the impact of those activities and whether they are achieving the intended result.

Tracking reform implementation is important to provide transparency and accountability. However, one-off activities or the development of a strategy or plan is not, in and of itself, an indicator of success. Without a focus on how these activities are ultimately contributing to the safety of victims and perpetrator accountability, it is not possible to know if they are working. The Taskforce appreciates that tracking the progress of implementation efforts is important. It is also important to focus on setting and achieving outcomes.

For example, determining the success of training for service providers, police and lawyers, and knowing the extent of professional development undertaken by judicial officers to help them better understand the nature and impact of domestic and family violence, will need to focus on whether it has contributed to the improved experience of victims and the effectiveness of responses to hold perpetrators to account. Evaluation of training that compares knowledge and understanding before and after training is important. But if it is not accompanied by an evaluation of whether it has had the desired impact on victims and perpetrators, the training cannot be assessed as effective.

Across the domestic and family violence and justice systems there is a need for robust mechanisms to measure, monitor, and evaluate the effectiveness of activities and interventions aimed at preventing and responding to domestic and family violence in ways that increase victim safety, hold perpetrators to account, and prevent violence.

The Taskforce appreciates that achieving a shift in focus from outputs to impacts and outcomes is not a simple task. This is particularly so in a data-limited environment (see discussion below) and where reforms involve multiple agencies and external partners. It is a process that requires vision, leadership, coordination, and expertise. As discussed below, some groundwork has begun, but further effort is needed across the system to consolidate and extend this approach. The implementation of the Taskforce's reforms is an ideal juncture at which to do this important work.

Building on current monitoring and evaluation efforts

The Taskforce recognises the work already undertaken across government to strengthen data collection and measurement of impact under the *Domestic and Family Violence Prevention Strategy 2016–26.* This is reflected in its accompanying Evaluation Framework[2] and Revised Indicator Matrix.[3]

The Evaluation Framework for the *Domestic and Family Violence Prevention Strategy 2016–26* includes these components:

- ongoing process evaluation of the strategy
- 'flagship' evaluations of key initiatives
- outcomes evaluation through regular reporting on the (revised) Indicator Matrix
- capacity building to support the implementation of the framework and ensure impact outcomes data is embedded in the programs under the strategy.[4]

As discussed in chapter 1.2, many indicators and methods of measurement are yet to be developed. This evolving approach is intentional and aligns with a similar staged approach taken in the Victorian Family Violence Measurement and Monitoring Implementation Strategy.[5] It takes time to build systems to collect the right data and for data to be collected over time. There are benefits to such an approach because clear objectives are set at the outset to guide gradual improvement over time. It would be appropriate to employ a staged approach to the implementation of a monitoring and evaluation framework as data collection capability and capacity evolves. This may require additional indicators to be included as reforms progress and new information and data-integration opportunities can be incorporated.

This work to establish a whole-of-government approach to monitoring and evaluation provides a strong basis that should be built upon to develop a more robust and comprehensive approach to measuring, monitoring, and evaluating the implementation of the Taskforce's recommendations.

There are also national efforts afoot. The work underway in Queensland draws upon and contributes to national efforts to address data gaps and to monitor progress under *the National Plan to Reduce Violence against Women and their Children 2010–2022*. A program of work has been undertaken by the Australian Bureau of Statistics and the Australian Institute of Health and Welfare to enhance the evidence base to support the National Plan.[6]

The National Outcome Standards for Perpetrator Interventions (NOSPI) is a key data project underway at the national level. It aims to measure perpetrator outcomes across the health, justice, corrections, and specialist services sectors against key indicators and identify areas for improvement. National reporting against the NOSPI is undertaken by the Australian Government in collaboration with the AIHW and state and territory governments. While NOSPI provides an important goal in the measurement of perpetrator outcomes, the Taskforce notes that this is a work in progress, with many data sources in development (as indicated in Queensland's Revised Indicator Matrix).

While there is a long way to go to fill the data gaps in domestic and family violence across Australia, there are opportunities for the Queensland Government to continue contributing to, and where possible leveraging, this work at the national level to strengthen data and reporting at the state level.

Building the evidence base: a need for innovation

Contributing to a strong evidence base is fundamental to shaping Queensland's response to coercive control and measuring success over time. As the Taskforce highlighted in chapters 1.1, 1.2 and 1.3, there are limitations in the research evidence relating to the prevalence of coercive control, the experiences of coercive control among certain groups or communities, and what programs and interventions work best to prevent and address coercive control across the service system.

There is considerable work underway, however, and the Taskforce has spoken to and drawn on the work of countless researchers across Australia and internationally who are contributing to knowledge and understanding of domestic and family violence (including coercive control). The Taskforce acknowledges the excellent work of ANROWS, whose stewardship of Australia's National Research Agenda to Reduce Violence against Women and their Children is paying dividends. The Taskforce has gratefully drawn on the findings of numerous articles and publications supported by ANROWS.

The findings in the research literature are complemented by the evaluative research of programs and initiatives delivered on the ground. This requires the intended impacts and outcomes for those programs to be agreed upon early, along with ways to measure success. Data collection mechanisms need to be set up early and data collected progressively.

Ideally, reforms and initiatives should be based on evidence of what works. But a lack of evidence shouldn't be a barrier to trying new and innovative solutions, based on what we *do* know. Instead, it provides a valuable opportunity to build on what we know and to grow the evidence base to inform best practice. Trialling new ways of delivering programs in areas where there is limited evidence involves accepting (and managing) a certain level of risk. The process of trialling innovative approaches is beneficial to learnings and insights into what does (or does not) work and what shows promise for further investigation.

Capacity building and evaluative thinking approaches

The Queensland Government recognised the need to build evaluation capacity and capability in the *Domestic and Family Violence Prevention Strategy 2016–2026*. Capacity building is important to ensure mechanisms are embedded in the design of programs and policies to collect meaningful implementation and outcome data.[7] The strategy intends to empower policymakers and program providers to develop and design programs that are evaluation-ready. In turn, capacity building in evaluation contributes to a more reliable evidence base, which will inform future policymaking exercises.[8]

The government's approach to building evaluation capability can be further bolstered by encouraging an evaluative thinking approach. Under capacity building, the focus is primarily on building evaluation skills and knowledge or ensuring key elements of a well-designed evaluation are included. Evaluative thinking goes a step further than building evaluation capability by fostering a culture of critical and reflective thinking.[9][10]

A culture that promotes evaluative thinking encourages individuals to:

- question and reason why certain approaches and not others are taken
- question why a program is being introduced in the first place
- clarifying what success looks like
- look for better data to collect
- take time for reflection
- not focus solely on the 'nuts and bolts' of implementing a program.

It supports an environment where learning from successes and mistakes is routine and encouraged during and after implementation.[11] This type of critical and reflective thinking, from the time a problem is identified to the completion of a program, continuously encourages individuals to find better ways of doing things or assessing ways to do things better.[12]

An overarching monitoring and evaluation framework must be developed and agreed on in phase one of the Taskforce's four-phase plan so that impacts and outcomes are clear before reforms are progressed and to enable baseline data to be collected and measured. The development of the framework will also guide efforts to enhance data capabilities (recommendation 86).

The Taskforce acknowledges that developing a whole-of-government approach to monitoring and evaluating reforms can be challenging because it requires coordination across the system. It is reliant on data to contribute to measurable indicators, which, as discussed below, is a challenge in itself.

An overarching monitoring and evaluation framework should be enduring and focus on impacts and outcomes sought across the domestic and family violence and justice system, incorporating the impacts of the reforms recommended by the Taskforce. A comprehensive plan for monitoring and evaluating impacts and outcomes across the system will provide the critical function of establishing agreed outcomes to guide implementation and against which success will be measured. A fundamental shift towards a greater focus on working towards and measuring impacts and outcomes for victims, perpetrators, and the effectiveness of the system as a whole is an overdue and much-needed change in approach.

Impacts and outcomes for Aboriginal and Torres Strait Islander peoples

Throughout this report, the Taskforce has sought to keep front and centre the strengths and needs of Aboriginal and Torres Strait Islander peoples. Key to this is embedding across the system and for each initiative or reform implemented in response to this report a primary focus on improving impacts and outcomes for First Nations peoples.

The whole-of-government monitoring and evaluation framework for the domestic and family violence service system should incorporate, as primary systemic outcomes, the two justice outcomes and targets (outcome areas 10 and 11) and the family and household safety outcome and associated domestic and family violence target (outcome area 13) in the National Agreement on Closing the Gap.[13]

Domestic and family violence reforms implemented in response to this report will contribute to Aboriginal and Torres Strait Islander families and households being safe by reducing all forms of family violence and abuse against Aboriginal and Torres Strait Islander women and children.

The reforms implemented in response to this report will contribute to Aboriginal and Torres Strait Islander peoples not being overrepresented as accused persons and offenders in the criminal justice or youth justice systems. There are also potential flow-on effects for over-representation in the child protection system.

The impacts and outcomes, including in the monitoring and evaluation framework, should be reflected in and contribute to Queensland's Closing the Gap implementation plan.

Recommendation 85

The Queensland Government develop and implement a whole of government monitoring and evaluation framework to measure and monitor outcomes achieved across the domestic and family violence service system including the impact of reforms recommended by the Taskforce that:

- builds upon and updates the Evaluation Framework for the Domestic and Family Violence Prevention Strategy 2016-2021
- is focused on the achievement of outcomes across the system as well as the delivery of recommendations
- incorporates qualitative and quantitative indicators to measure impacts and outcomes
- requires the early development of evaluation plans for key initiatives and reforms as part of the design process that are consistently aligned and contribute to delivering outcomes across the system
- incorporates mechanisms to measure and monitor the views and perspectives of people with lived experience
- includes impacts and outcomes for Aboriginal and Torres Strait Islander peoples that contribute towards achieving the outcomes and targets in the National Agreement on Closing the Gap.

The monitoring and evaluation framework will be developed and agreed in phase one of the Taskforce's four phase plan to enable baseline data to be collected and measured.

Implementation

A monitoring and evaluation framework should be developed as part of the early implementation planning to respond to the recommendations and reforms in this report. The framework should articulate desired outcomes, identify appropriate indicators and measures, and establish baselines. This should be achieved through a robust system-wide process based on a 'program logic' for each element of reform. A program logic articulates how activities and outputs link to intermediate impacts and longer-term outcomes. These mechanisms also contribute to building the evidence base to inform future decision-making.

This framework should be outcomes-oriented, with the focus being on measuring outcomes and impacts, with the output or activity the secondary focus as a means of achieving the outcome. By focusing on outcomes, the framework should provide participating agencies and stakeholders with a guiding vision to support collective accountability and a collaborative approach to address domestic and family violence. Throughout this report, each chapter has indicated specific considerations for implementation and evaluative processes for specific recommendations and reforms. For some, this has included a discussion about suggested desirable outcomes. A monitoring and evaluation framework should draw together these separate elements for key initiatives into an integrated system-wide approach to monitor the progress and impact of reform, evaluate outcomes, and build the evidence base.

The framework will incorporate evaluation plans (established in the design phase) for the key initiatives. These initiatives will have clear outcomes, measures, and indicators that align with the overarching framework. Where data is not available to measure impacts and outcomes, measures and indicators should be agreed to inform data-improvement processes across the system. This could involve agreed measures being monitored through additional indicators over time through a tiered approach as data becomes available.

The monitoring and evaluation framework will also consider the efficacy and efficiency of investment to enable value for money to be demonstrated. This, in turn, should inform ongoing decisions as part of the strategic investment plan recommended by the Taskforce (chapter 3.3). Incorporating a whole-of-system approach will enable government to monitor the impacts and outcomes of investment on one part of the system and the flow-on effect across the system, including for other agencies and the courts. This will form part of the focus on service system integration and coordination as a desired system outcome in the framework.

The evaluation framework will have a focus on outcomes for victims, perpetrators, and service system integration and coordination. It will have a clear focus on improving outcomes for Aboriginal and Torres Strait Islander peoples, young people, people from culturally and linguistically diverse backgrounds, people with disability, older people, and LGBTIQA+ people. It can be informed by work undertaken to date about strengthening and disaggregating data and include consultations with relevant groups (for example, the Aboriginal and Torres Strait Islander Domestic and Family Violence Prevention Group).

An important part of the monitoring and evaluation framework will be to consider how to incorporate the perspectives of people with lived experience, as well as quantitative outcome measures. This is discussed further below in relation to strengthening the data.

Human rights considerations

Implementing a robust approach to monitoring and evaluating reforms will promote the personal rights that are engaged when domestic and family violence is prevented, responded to early, and victims are kept safe, including the right to life (section 16), the right to liberty and security of the person (section 29), and the right to protection of families and children (section 26).

Ensuring that the approach specifically considers the impacts of measuring and monitoring on certain population groups will promote the above rights, as well as recognition and equality under the law (section 15), cultural rights generally (section 27), and the cultural rights of Aboriginal and Torres Strait Islander peoples (section 28).

Furthermore, the development and implementation of a monitoring and evaluation framework provides information to inform decision-making. This supports public entities to take human rights into consideration and make decisions that are compatible with human rights, as they are obliged to do under the Human Rights Act 2019.[14]

The collection and extraction of data required to underpin the monitoring and evaluation of systemic impacts and outcomes potentially limit the right to privacy (section 25) insofar as it requires the collection of personal information. The right to privacy can be limited where reasonably and demonstrably justified. The mechanisms used to collect, store, and use personal information as part of data used for monitoring and evaluative processes should endeavour to include appropriate safeguards, such as seeking consent in accordance with the relevant legislation including the *Information Privacy Act 2009*.

Enhancing the quality of data across the system

The Taskforce has observed significant and concerning limitations in the availability of consistent data across the domestic and family violence service and justice systems. There is a clear need to strengthen capability and capacity across government and non-government agencies about the collection and extraction of data related to the domestic and family violence system. As well as informing decision-making, this would support service system integration and coordination and effective monitoring and evaluation processes.

The collection and sharing of relevant data based on agreed and robust methodology and analysis will support integrated and effective day-to-day operations by government agencies and non-government services. It will provide evidence to support a process of continual improvement of policies, procedures, and practices for individual organisations and improve transparency and accountability to maintain public confidence. These issues are discussed in other parts of this report. The focus of this section is on data collection, monitoring, and analysis to support the implementation of a monitoring and evaluation framework, as well as strategic decisions about systemic reforms.

The Taskforce acknowledges the excellent work of the Queensland Government Statistician's Office in linking data from various government agencies on domestic and family violence responses. This work has been invaluable in informing the Taskforce's work and this report, and it is an important resource for the Queensland Government.

As discussed in chapters 1.2, 3.3, 3.4 and 3.5, the Taskforce's review noted that important aspects of data were unavailable either because they were not captured or required data from various agencies to be collected and linked, which could not be done without a manual review of files. This made it difficult for the available data to contribute to an understanding of a range of issues, including:

- the experience of perpetrators and victims engaging with the justice and service systems over time, and how different parts of the system interact
- patterns of violence and abuse over time (particularly when the abuse does not result in the offender being charged with an offence)
- recidivism, including for those perpetrators who have completed perpetrator programs (again, particularly where there have not been further charges)

- the trajectory of abuse over time, both for perpetrators and victims who are in contact with the domestic and family violence service system
- the success or otherwise of interventions and support in preventing reoffending or improving safety
- the impact of domestic and family violence on children, including their experience of interacting with the domestic and family violence service system
- an understanding of the experiences of diverse Queenslanders, including through the collection of disaggregated data and the voices of people experiencing the domestic and family violence service system
- the experience of victims and perpetrators with co-morbidities and how these affected their experience of the service system.

These limitations are apparent across all parts of the system (both government and non-government services) and are most pronounced where data linkage across systems is required. These limitations hamper efforts to understand and analyse the impacts and outcomes of reform across the service system. They also limit the quality of information available to individual service providers.

Where data was available, the Taskforce observed a lack of consistency in analysis, which led to different advice and information being provided publicly. This can undermine agencies working collaboratively as part of an integrated service response.

The Taskforce recognises that data collection and management can be a burdensome and time-consuming task for busy frontline services — government and non-government alike. It can also be difficult to prioritise investment in this capability relative to other dire needs across the service system.

It is important also to acknowledge that many non-government services operate under contractual arrangements with different funding bodies (for example, they may receive funding from both the Queensland and Australian governments), each with its own reporting requirements. Service providers also have their own governance arrangements (for example, as part of large or national non-government organisations) that may stipulate data collection and reporting requirements. As a result, non-government service providers may be required to collect data and information in addition to that required under their contractual arrangements with the Queensland Government.

Recommendation 86

Relevant Queensland Government agencies ensure there are data collection and reporting capabilities within their agencies to enable the implementation of the monitoring and evaluation framework. Where sufficient capabilities do not yet exist, agencies should put in place a plan to build this capacity throughout the implementation of the four-phase plan.

Agencies will also support funded non-government service providers to collect and regularly report on data and information required for the monitoring and evaluation process.

Implementation

Data collection and reporting capabilities are required to enable the evaluation of key reforms recommended by the Taskforce and the implementation of the monitoring and evaluation framework, which is to be developed and agreed upon early in the Taskforce's four-phase plan.

The Taskforce acknowledges that there are varying capabilities across government agencies. Data collection usually involves extracting information from administrative data captured for record-keeping and service-delivery requirements. Data systems are primarily designed for operational purposes, often making it difficult to extract information efficiently and effectively. Modifying these existing systems to align with a common approach can be resource-intensive and work that is difficult to prioritise among other demands. Given the value of the investment in the system overall and the general cost to government and the community as a result of domestic and family violence, this work should be given priority.

A variety of different data should be collected and analysed to monitor and measure impacts and outcomes, including administrative and performance data from government agencies, data provided by non-government agencies as part of their contractual requirements, and data and information collected specifically for monitoring and evaluation purposes. It should link various data sets and incorporate a combination of qualitative and quantitative information.

As noted in chapter 1.2, there are additional challenges in supporting funded non-government organisations to enhance their data collection and reporting capabilities. Doing so in ways that complement and enhance existing processes is important so as not to increase the administrative burden. Non-government services can also benefit from a feedback loop where data reported to government is collated and then shared with services. This would support a process of continual improvement across the system and enable services to gauge how they are tracking in comparison to other similar services.

Enhancement of data capability is likely to require investment to modernise current data management systems in some agencies. For example, the Queensland Wide-Interlinked Courts system, used by Courts Services Queensland as a 'case management' system, is approximately 20 years old, and the Department of Justice and Attorney-General advises that it is inadequate to meet ongoing business needs or community expectations.[15] These deficiencies contribute to the inability to capture and monitor key information — for example, when and how often a domestic violence order is breached.[16] Non-government organisations may also require additional resources where there is a need to update data management systems.

While these resources may not be immediately available, the monitoring and evaluation framework will guide the improvement of data capabilities, including integrating and linking data across systems in ways that avoid duplication and leverage existing strengths. This will provide an important foundation for the effective use of resources when they are available. It is an iterative process that will be most effective when there is a clear vision and coordinated efforts.

The Taskforce is aware of work underway by the Department of Justice and Attorney-General to:

- identify meaningful data measures across the domestic and family violence service system
- enhance the ability of data collection and reporting by funded domestic and family violence services
- enhance the capacity to analyse and interpret the data.

This work aims to strengthen data collection and more meaningfully measure the impacts of the domestic, family and sexual violence service system, including through a shift away from output data towards indicators that reflect demand pressures, efficiency, and customer focus, as well as outcomes[17] It is also exploring opportunities to better understand the client/user experience. [18] This project is in its first phase, which includes a current state analysis and the development of a roadmap to address gaps and impediments. The project is, however, limited to the domestic, family and sexual violence services system — it does not include other parts of the system, such as police, justice, and the courts.

DJAG's work provides a good foundation for the implementation of the Taskforce recommendations and should be broadened to strengthen data capabilities across the whole-of-government domestic and family violence service system, with a focus on improving data linkages and integration to support an enhanced focus on outcomes. Ideally, these efforts would work towards achieving an integrated whole-of-system approach to domestic and family violence data analysis in Queensland. It would enable government, and the service system more broadly, to:

- measure impacts across the system and the success or otherwise of activities
- monitor for unintended consequences
- make decisions about the most effective use of resources.

Increasing the focus on understanding perpetration

Enhancing the availability of data to support the monitoring and evaluation of reforms will enable a better understanding of the nature of domestic and family violence-related offending and perpetration. As discussed in chapters 1.2 and 3.5, there is a dire need to increase knowledge about perpetrators and perpetrator interventions. As academic Michael Flood states:

> Existing data on domestic and family violence focuses on victimisation experiences, that is, how many people have suffered violence and the kinds of violence they have experienced. While this information is vital, it is equally important to know about perpetration. What proportions of people have used violence against an intimate partner or family member? When, how and why have people in Australia perpetrated domestic and family violence and sexual violence? We simply do not know.[19]

While the current Evaluation Framework for the *Domestic and Family Violence Prevention Strategy 2016–26* does include indicators that focus on perpetrators, there is a need to strengthen the collection and quality of data on perpetration. This will help to build the evidence base about what type of intervention works for different levels of risk. This is a critical part of measuring the impact of implementation of the Taskforce's recommendations across the system.

Data that accounts for diversity

Chapter 1.1 illustrated how women experience coercive control differently based on their ethnicity, culture, and race, whether they have a disability, and their age. Historically, data collection and reporting on violence and abuse have largely grouped women's experiences of domestic and family violence. This has lessened the understanding of the diversity of women's experiences,[20] including coercive control.

> We recommended an approach to policy making in criminal justice responses to domestic and family violence that considers the exceptional risks that culminate when forms of marginalisation intersect.[21]

The Taskforce notes that there are attempts to improve data on diversity. The Revised Indicator Matrix, for example, outlines areas for which disaggregate data relevant to particular population groups is sought. However, there are challenges collecting this data and reporting on these issues across the system.

Intersectional data collection is an emerging area of practice, with growing calls for the diversity of women to be acknowledged in research and policy. Our Watch, a national primary prevention organisation, identifies strategies for tracking prevention at a population-level informed by an intersectional approach that can be incorporated in evaluation frameworks and design. The Indigenous Evaluation Strategy,[22] developed by the Australian Government Productivity Commission, is a resource for government agencies when selecting, planning, conducting, and using evaluations of policies and programs affecting Aboriginal and Torres Strait Islander peoples. The Strategy emphasises the need to draw on the perspectives, priorities, and knowledge of Aboriginal and Torres Strait Islander peoples if outcomes are to be improved.

The Taskforce appreciates that there are sensitivities that need to be considered in order to collect this information appropriately. It is essential that relevant community members lead the design and implementation of processes for collecting and managing the data.

The 2018 Warawarni-gu Guma (Healing Together) Statement,[23] issued at the ANROWS 2nd National Research Conference on Violence against Women – 2018, provided an Aboriginal and Torres Strait Islander perspective on domestic and family violence. Its pathway forward for Aboriginal and Torres Strait Islander communities included the following about data:

> We need an open and transparent process about where and how data is collected, and where and how research is conducted; and by whom. This data collection must as a first step, be based on our stories about our realities; this provides the foundations to knowing what needs to be asked, how it needs to be asked, and who should ask the questions.
>
> We need data sovereignty. Our data must be owned and controlled by us. We need to establish a system where our people have access to our data and our stories; a system where we can see who is using the data and how the data is being used.

The collection, storage, and analysis of data relating to Aboriginal and Torres Strait Islander peoples should, therefore, be informed and guided by consultation and engagement with First Nations peoples and communities.[24] It should also align with priority reform 4 of the National Agreement on Closing the Gap.[25]

Overall, current data limitations across the system, including the challenges in linking data across agencies, represent a critical deficiency in the current response to domestic and family violence. It hampers well-informed decision-making and constrains the evidence base about what works (and what does not). The investment of effort to strengthen data capabilities, including through better linkages across systems, is crucial work that will have long-term benefits.

Human rights considerations

Enhancing the collection and collation of data across the service system to support an understanding of the impacts of reform promotes a large number of rights under the Human Rights Act. These include the personal rights engaged when domestic and family violence is prevented, responded to early, and victims are kept safe, including the right to life (section 16), the right to liberty and security of the person (section 29), and the right to the protection of families and children (section 26).

The collection of data supports the obligation of public entities (including organisations providing public services on behalf of the government) to take human rights into consideration and make decisions that are compatible with human rights, as they are obliged to do under the Human Rights Act 2019.[26]

The collection and extraction of data, particularly personal and sensitive information about individuals, potentially limits the right to privacy (section 25). However, the right to privacy may be limited where reasonably and demonstrably justified. Mechanisms put in place should include appropriate safeguards, such as seeking consent as required by relevant legislation, including the *Information Privacy Act 2009*. As discussed above, the collection of data relating to Aboriginal and Torres Strait Islander peoples should be implemented in ways that do not limit cultural rights (section 28).

Governance to support successful reform implementation

As a complex social problem that intersects with a range of government agencies and service responses, addressing domestic and family violence requires governments to work 'horizontally' across all government and non-government agencies and the community to achieve an integrated whole-of-system response. Success requires good planning, sufficient resources, well-coordinated participant agencies and external stakeholders. It also, as discussed above, requires regular monitoring, reviewing, and evaluation. It should encompass the engagement and involvement of people with lived experience at every point.

There is a critical need for strong governance, coordination, and oversight to assure public funds are spent in a way that maximises desired outcomes and manages risk to deliver value for money.

The Taskforce notes with concern the remarkable consistency between the Taskforce's findings and recommendations and those made by the Queensland Domestic and Family Violence Death Review and Advisory Board (DFVDRAB) in its five annual reports since its establishment in 2016, in line with a recommendation of the *Not Now, Not Ever* report. A considerable number of the issues identified in this report have previously been the subject of recommendations, or multiple recommendations, by the DFVDRAB. Many also align with the recently published 2020–21 Annual Report.

By establishing the DFVDRAB, the Queensland Government has invested resources to draw on the considerable expertise of board members, including the State Coroner, to make findings and recommendations for systemic reform to prevent or reduce the likelihood of domestic and family violence deaths in Queensland.[27] This has contributed to a wealth of information about how domestic and family violence is being responded to across the service system and, importantly, where there are deficits that need to be addressed.

The Taskforce is concerned, however, that there is insufficient accountability for the implementation of the DFVDRAB recommendations accepted by the government. The annual DFVDRAB reports are required to include information about the progress made to implement the Board's recommendations. Annual reports must be tabled in the Queensland Parliament by the Minister within one month of being received.[28] The DFVDRAB's consideration of implementation progress is reliant, however, on reports provided by the government. These reports do not always provide detailed information to demonstrate effective implementation or the impacts and outcomes achieved. As stated in the DFVDRAB 2020–21 Annual Report:

> … it is unclear from some agency responses the extent to which recommendations (whether accepted in full, in part or in principle) have been fully adopted as intended by the Board, or what action has been taken beyond reforms already underway.[29]

The DFVDRAB 2020–21 Annual Report also reflects on the ability of agencies to fully appreciate the intent of the recommendations, particularly in the context of the (more limited) de-identified information provided in the DFVDRAB annual reports.[30] The DFVDRAB notes that 'the complete circumstances of the systemic shortcomings identified by the Board may not be fully apparent to those who are required to respond to a recommendation'.[31] This, in turn, may impact the implementation approach taken by agencies, with some recommendations accepted only in principle or in part, given work underway that meets the apparent intent of the DFVDRAB recommendation.

These issues appear to result in missed opportunities to use the expertise of the Board to effect meaningful improvement across the system in response to identified issues. Although the ability of DFVDRAB to report on implementation progress, and the government's implementation reports, together provide a level of public transparency and scrutiny, the DFVDRAB is reliant on self-reporting by agencies and has no powers to hold agencies accountable for failure to fully implement the recommendations. Given the similarity in the findings and recommendations of the Taskforce with many of those made previously by the DFVDRAB in its annual reports, this is a lost opportunity to fully realise the benefits of the expertise and resources invested in the DFVDRAB.

As noted in chapter 1.2, the Taskforce consulted with the Queensland Audit Office (QAO), which is currently examining the government's progress in funding and implementing domestic and family violence initiatives and assessing the effectiveness of its governance of the program of reform following the *Not Now, Not Ever* report. While the QAO was not able to disclose findings of its current review, the Taskforce heard that in the course of its many reviews, the QAO regularly observed that implementation of cross-government initiatives was often poorly achieved. The QAO highlighted the need for strong leadership and coordination, combined with adequate oversight and accountability.

The Taskforce does not comment on or make any findings about the effectiveness of the governance of the program of reform following the *Not Now, Not Ever* report.

The Taskforce does, however, recommend adequate governance mechanisms be put in place — critically, this includes independent oversight to monitor the progress of reforms and whether or not agreed impacts and outcomes across the system are being achieved.

To provide strong governance to implement and oversee the reforms, the Taskforce recommends the establishment of three bodies :

- a ministerial level oversight committee
- an interagency implementation group comprising directors-general
- an independent implementation supervisor with an adequately resourced secretariat within the Department of Justice and Attorney-General.

To support public accountability and transparency, the Taskforce recommends the Attorney-General report to the Queensland Parliament annually on the progress of implementation of recommendations and tables the biannual (twice yearly) reports of the independent implementation supervisor.

Recommendation 87

The Queensland Government establish a ministerial level oversight committee and a directors-general implementation group with responsibility for implementing the recommendations made by the Taskforce and for the achievement of systemic outcomes for victims and perpetrators outlined by the Taskforce and included in the monitoring and evaluation framework.

Each level of governance will include representatives with portfolio responsibility for:

- women and domestic and family violence prevention
- justice and court administration
- police
- Aboriginal and Torres Strait Islander partnerships
- corrective services
- health
- education
- child safety services
- youth justice services
- housing and homelessness services.

The role of the ministerial level oversight committee will be responsibility and accountability for implementation of the Taskforce's recommendations and achievement of systemic outcomes, negotiating the allocation of resources and progressing joint submissions for funding where required, resolving barriers and issues to ensure agencies remain on track to implement recommendations fully, within the specified timeframes to deliver agreed impacts and outcomes.

The role of the directors-general level implementation group will be to oversee implementation of the Taskforce's recommendations and achievement of outcomes, fully and within specified timeframes. The directors-general implementation group will report and escalate issues to the ministerial oversight committee.

Recommendation 88

The Queensland Government establish a suitably qualified independent implementation supervisor with an adequately resourced secretariat within the portfolio responsibilities of the Department of Justice and Attorney-General, as the agency responsible for the prevention of domestic and family violence, to oversee both the implementation of the recommendations made by the Taskforce and the achievement of system outcomes identified in the monitoring and engagement evaluation plan. This should be established immediately.

The independent implementation supervisor should be appointed by early 2022 and will liaise with and receive assistance, including access to all reasonably requested information and reports, from:

- a ministerial level oversight committee and
- a directors-general implementation group.

The independent implementation supervisor will be responsible for overseeing implementation of the four-phase plan and the achievement of outcomes across the system. The supervisor will have the authority required to direct agencies to take reasonable actions to meet implementation requirements and timeframes approved by the Queensland Government.

The supervisor will report directly to the Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence biannually, from mid-2022 until implementation is complete, on the progress of the implementation of the Taskforce's recommendations and the achievement of systemic outcomes, the adequacy of implementation and what further measures may be required to ensure the Taskforce's recommendations that are accepted by the Queensland Government are implemented fully within the specified timeframes. The independent supervisor will advise the Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence when they are satisfied implementation is complete.

Recommendation 89

The Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence will report annually to the Queensland Parliament on the progress of the implementation of the Taskforce's recommendations and table the biannual reports of the independent implementation supervisor in the Queensland Parliament within 14 days of receipt, until implementation is complete.

Implementation

To facilitate the timely commencement of reforms implementation, the independent implementation supervisor, the directors-general implementation group, and the ministerial oversight committee should be established as early as possible in the four-phase plan.

The first report of the independent implementation supervisor should be provided to the Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence in mid-2022 and then provided biannually until implementation is complete.

These elements of governance to support the successful implementation of reforms are discussed in more detail below. Each level of governance should be directly informed by people with lived experience of domestic and family violence.

Ministerial oversight committee

The bringing together of responsibility of the justice portfolio and responsibility for the prevention of domestic and family violence and women into a single portfolio marks a critical opportunity for leadership and reform to better integrate and coordinate responses across both elements of the portfolio. To make the most of this opportunity, the Taskforce recommends that leadership and primary responsibility for governance arrangements to oversee implementation of the Taskforce's recommendations should sit with the Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence.

However, responsibility for matters related to the drivers and responses to domestic and family violence sits across several ministerial portfolios. Given the complexity of the issues, it is important that high-level accountability is established to enable effective collaboration to achieve shared outcomes across portfolios. The establishment of a ministerial oversight committee is recommended to ensure accountability and high-level buy-in for the progression of reforms across government. Membership of the oversight committee will include ministers with relevant portfolio responsibility across the government response to domestic and family violence and for implementation of the reforms.

This group would be responsible for negotiating the reallocation of funding and for progressing joint submissions for additional resources where required. It will ensure implementation remains focused on whole-of-system impacts and outcomes beyond the vested interests and impacts of individual agencies. It would resolve any barriers and issues to ensure recommendations are implemented fully within the specified timeframes. This includes any issues identified by the independent implementation supervisor or issues escalated from the directors-general implementation group (see below).

Directors-general implementation group

A directors-general implementation group will have primary responsibility for implementing the recommendations made by the Taskforce and for the achievement of systemic outcomes for victims and perpetrators outlined by the Taskforce and included in the monitoring and evaluation framework. The group will be responsible for ensuring the implementation of reforms fully and within specified timeframes, including ensuring agencies work collaboratively and enabling the pooling of resources.

The group will comprise directors-general or chief executive officers for agencies responsible for implementing reforms as well as central agency representation.

This group will coordinate the effective and efficient delivery of reforms to address coercive control in Queensland. It will provide strong and ongoing leadership and establish sound processes for coordinating the implementation plan, which will clearly define agency responsibilities.

This group will also:

- facilitate cross-agency collaboration and coordination of effort to ensure alignment and avoid duplication
- review progress towards achievement of desired outcomes and consider areas where outcomes are not being achieved
- monitor, identify, and take action to mitigate risks
- resolve issues identified by agencies or the independent implementation supervisor (see below)
- approve any significant amendments to the implementation plan and monitoring and evaluation plan, based on emerging evidence and in line with continual process improvement.

The directors-general implementation group will report and escalate issues to the ministerial oversight committee, where necessary.

The focus of this group should be on the achievement of outcomes articulated in the monitoring and evaluation plan and addressing any roadblocks encountered in the implementation of reforms.

This body should facilitate inter-agency collaboration through the attendance of directors-general with the decision-making authority to resolve issues and take action. The attendance of proxies should therefore be limited.

Independent implementation supervisor

The Taskforce recommends the establishment of an independent implementation supervisor to oversee the progress and effectiveness of reform implementation. The supervisor should remain in place until the conclusion of the reform implementation.

The independent implementation supervisor would need to be adequately resourced with a secretariat and program office and provided with sufficient and appropriate authority to obtain the information needed to fulfil their functions.

The independent supervisor should sit within the responsibilities of the Department of Justice and Attorney-General and report directly and biannually to the Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence as the minister responsible for the prevention of domestic and family violence. This report should include (but not be limited to):

- the progress of the implementation of the Taskforce's recommendations and the achievement of systemic outcomes
- the adequacy of implementation
- what further measures may be required to ensure the Taskforce's recommendations are implemented fully within the specified timeframes.

The independent implementation supervisor should liaise with and receive assistance, including access to all reasonably requested information and reports, from the ministerial-level oversight committee and the directors-general implementation group. The independent implementation supervisor should support continual process improvement — informed by data collection, performance measurement, analysis, and reporting. To be clear, the independent supervisor should independently oversee, not be responsible for, the implementation of Taskforce recommendations by the Department of Justice and Attorney-General.

The Taskforce notes that there are examples of oversight entities that may be drawn upon to support implementation of this recommendation. For example in Victoria, a Family Violence Reform Implementation Monitor was established following the 2016 Royal Commission into Family Violence as an independent statutory officer of the parliament.[32] The Monitor is tasked with the responsibility of monitoring and reviewing how effective the Victorian Government and its agencies are in implementing the family violence reform recommendations.[33] This includes assessing implementation progress, as well as the effectiveness of the method used, supported by consultation arrangements with agencies so the Monitor has the information necessary to perform the role.[34] The Monitor provides a report each year to the minister, which is tabled in parliament and published on its website.[35]

Reporting on progress of reforms

To ensure public accountability for impacts and outcomes delivered and funds expended, and to support transparency regarding the progress of the reforms, the Taskforce recommends the Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence be required to table the biannual reports of the independent implementation supervisor in the Queensland Parliament within 14 days of receipt.

Furthermore, the Taskforce recommends that the Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence be required to report annually to the Queensland Parliament on the progress of the implementation of the Taskforce's recommendations until implementation is complete.

This reporting provides a transparent mechanism to communicate to the Queensland community how the important issues that have been raised with the Taskforce are being addressed.

Human rights considerations

Establishing a ministerial-level oversight committee, a directors-general implementation group, and an independent implementation supervisor supports the implementation of reforms aimed at addressing coercive control and domestic and family violence. This promotes a large number of rights under the Human Rights Act such as the personal rights engaged when domestic and family violence is prevented, responded to early, and victims are kept safe, including the right to life (section 16), the right to liberty and security of the person (section 29), and the right to the protection of families and children (section 26). Establishing these governance and implementation mechanisms is not expected to limit any human rights.

Conclusion

In this chapter, the Taskforce has recommended the development and implementation of a robust monitoring and evaluation framework to enable impacts and outcomes across the system (as a result of the implementation of the Taskforce's recommendations) to be regularly reviewed. This will enable the Queensland Government to understand what is and isn't working, to determine what changes have occurred as a result of reform, and provide detailed insight into how this has occurred. Most importantly, it will provide clear and focused scrutiny on the delivery of impacts and outcomes for victims, perpetrators, and system integration and coordination.

The Taskforce has also discussed and made a recommendation about the urgent need to improve the collection and analysis of relevant data across the system to enable impacts and outcomes to be properly measured over time. The Taskforce acknowledges that this is an area requiring ongoing capacity and capability building across government and the non-government sector. However, it is an area of critical importance. Having the right data and the ability to analyse it will mean smarter and more strategic decision-making, especially regarding the allocation and investment of limited public resources and a better understanding of what difference is being made in the lives of the people whom the system seeks to support and keep safe.

Finally, this chapter has made recommendations for governance arrangements to ensure the recommendations made by the Taskforce are fully implemented and outcomes are achieved. These recommendations draw on the experience of implementing reforms of a similar nature in Queensland and other jurisdictions. The Taskforce has set a valuable and ambitious reform program in this report, which will require independent, responsible, and accountable oversight to achieve better outcomes for victims, perpetrators, and people of Queensland.

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Appendix 1

TERMS OF REFERENCE

Taskforce on Coercive Control and Women's Experience in the Criminal Justice System

An independent, consultative Taskforce will be established to examine:

1) coercive control and review the need for a specific offence of commit domestic violence; and
2) the experience of women across the criminal justice system.

The Taskforce will undertake independent consideration of issues within scope of the review and make recommendations to the Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence (Attorney-General).

The Taskforce will be comprised of a Chair and other subject matter experts.

The Taskforce will be supported by a secretariat provided by the Department of Justice and Attorney-General (DJAG) and will regularly engage with women with a lived experience, including survivors of Domestic, Family and/or Sexual Violence (DFSV).

Timeframe

The Taskforce will provide a report on its findings and recommendations to the Attorney-General as follows:

(a) in relation to how best to legislate against coercive control as a form of domestic and family violence and the need for a new offence of "commit domestic violence", by **October 2021;** and

(b) in relation to other areas of women's experience in the criminal justice system, by **March 2022**.

Scope

In making recommendations, the Taskforce may consider:

- how best to design, implement and successfully operationalise legislation to deal with coercive controlling behaviour in a domestic and family violence context with regard given to the Government's existing commitments relating to coercive control, training for first responders and public education and awareness;
- whether a stand-alone offence of domestic violence is required;
- actual or perceived barriers which contribute to the low reporting of sexual offences and the high attrition rate throughout the formal legal process of those who do report;
- the need for attitudinal and cultural change across Government, as well as at a community, institution and professional level, including media reporting of DFSV;
- the unique barriers faced by girls, Aboriginal and Torres Strait Islander women, culturally and linguistically diverse women, incarcerated women, elderly women, women in rural, remote and regional areas and LGBTIQA+ women, when accessing justice as both victims and offenders;
- policing and investigative approaches, including the collection of evidence and specialist training and trauma-informed responses to victims and survivors;

- how best to improve capacity and capability across the criminal justice system to understand and respond to the particular issues experienced by women as victims and offenders including for support and advocacy services, police, prosecutions, defence representation, courts and the judiciary;
- the adequacy of DFSV service system integration with the justice system;
- other legislative and policy issues, including in relation to the criminal justice system and the interface between the criminal justice and domestic and family violence and sexual violence systems; and
- any other policy, legislative or cultural reform relevant to the experience of girls and women as they engage with the criminal justice system.

Guiding principles and considerations

In undertaking the Review, the Taskforce should have regard to the principles and considerations related to:

i. keeping victims safe and holding perpetrators to account;
ii. a trauma-informed, and evidence-based approach that takes into consideration the lived experience of women who are involved in the criminal justice system;
iii. just outcomes by balancing the interests of victims and accused persons;
iv. efficacy, efficiency and value for money, including in relation to current investment across the system;
v. consideration of the Queensland Government's current domestic and family violence, sexual violence prevention and criminal justice system reform program and achievements;
vi. the diversity of women involved in the criminal justice system and their individual experiences;
vii. the opportunity to learn from, leverage and build upon local, national and international research, evidence and best practice approaches;
viii. the need to protect and promote human rights, including the rights protected under the *Human Rights Act 2019*; and
ix. any other related matters the Taskforce considers relevant.

Consultation

The Taskforce's examination should be informed by broad and wide-ranging consultation with:

a. DFSV survivors and victims, and women with personal experience of the criminal justice system;
b. DFSV service providers and networks;
c. other relevant advocacy groups, including the Queensland Police Union;
d. prosecution and policing agencies, including the Queensland Police Service and Director of Public Prosecutions;
e. the Domestic and Family Violence Prevention Council;
f. government departments, agencies, local governments and relevant statutory bodies;

g. other governance bodies supporting the Queensland Government's domestic and family violence and sexual violence reform agenda;
h. legal stakeholders and practitioners;
i. the judiciary, including the State Coroner;
j. the public generally; and
k. any other group or individual, in or outside Queensland, that the Taskforce considers relevant.

Consultation may be undertaken by the Taskforce in any form, including for example the release of discussion/issues papers and use of focus groups.(**End**)

Appendix 2

List of stakeholders the Taskforce met with

The Taskforce's examination of the issues was informed by broad and wide ranging consultation with stakeholders who shared their views and experience on matters that related to the terms of reference.

The below table lists the name of the stakeholders the Taskforce met with. The Taskforce held a number of meetings with various representatives of some Queensland Government departments which are listed by department name only. A number of confidential meetings were also held.

Stakeholder name
Aboriginal and Islander Development Recreational Women's Association (AIDRWA)*
Aboriginal and Torres Strait Islander Domestic and Family Violence Prevention Group
Aboriginal and Torres Strait Islander Legal Service (ATSILS)*
Aboriginal and Torres Strait Islander Women's Legal Services North Queensland (ATSIWLS NQ)
Access Community Housing Company (ACHC)*
Act for Kids*
Australian Security Industry Association Limited (ASIAL)
Bar Association of Queensland
The Bangle Foundation
Dr Sarah Bennett
Beyond DV*
Deputy Chief Magistrate Janelle Brassington
Brisbane Domestic Violence Service (BDVS), staff and clients
Brisbane Youth Service*
The Honourable Dame Quentin Bryce AD CVO
Centre Against Domestic Abuse (CADA)*
Carbal Medical Service
Cairns Community Legal Centre*
Cairns Regional Domestic Violence Service (CRDVS)*

* Consultation forum participant.

Cairns Sexual Assault Service, True Relationships and Reproductive Health*
CatholicCare Social Services Toowoomba*
Centacare*
The Centre for Women Co.*
Child Death Review Board
Child Protection Practitioners Association of Qld
Dr Donna Chung*
Community Justice Group, Palm Island
Community Justice Group, Thursday Island
Community Legal Centres Queensland*
COOEE Indigenous Family and Community Education Centre
Counselling 4 Effect Pty Ltd*
Adjunct Professor Sandra Creamer
Crime and Corruption Commission
Dr Caroline De Costa AM
Deadly Connections*
Department of Children, Youth Justice and Multicultural Affairs
Department of Communities, Housing and Digital Economy
Department of Education
Department of Environment and Science
Department of Justice and Attorney General
Department of Seniors Disability Services and Aboriginal and Torres Strait Islander Partnerships (DSDSATSIP)
Dillon Legal*
Director of Public Prosecutions
Disability and Domestic and Family Violence Consultative Working Group
Zhanae Dodds

* Consultation forum participant.

Domestic and Family Violence Death Review and Advisory Board
Domestic and Family Violence Prevention Council
Domestic Violence Action Centre (DVAC)*
Domestic Violence Prevention Centre (DVPC) Gold Coast Inc.
Dr Heather Douglas
DV Connect
Domestic Violence Network, Palm Island
Endeavour Chambers*
Family Inclusion Network Townsville*
Family Emergency Accommodation Townsville Inc. (FEAT)*
His Honour Judge Terry Gardiner, Chief Magistrate
Deputy Chief Magistrate Anthony Gett
Dr Kate Fitz-Gibbon
Griffith University, MATE Bystander Program*
Gold Coast Youth Service*
Headspace, Toowoomba*
Jess Hill
High Risk Teams, Cairns and Mount Isa
Marc Hogan
The Honourable Chief Justice Catherine Holmes AC
Her Honour Judge Kate Hughes, Family and Federal Circuit Court
Injilinji Aboriginal and Torres Strait Islander Corporation for Children and Youth Services*
Islamic Women's Association of Australia (IWAA)*
Legal Aid Queensland*
Legal Services Commission
Lena Passi Women's Shelter
Lifeline, Toowoomba*

* Consultation forum participant.

LGBTQ Domestic Violence Awareness Foundation
Lloyd and Sue Clarke
Dr Marlene Longbottom*
Angela Lynch
The Honourable Ann Lyons, Senior Judge Administrator
Magistrate Trinity McGarvie
Dr Paul McGorrery
Dr Marilyn McMahon
Macleod Refuge for Women*
Member for Clayfield, Tim Nicholls MP
Member for Noosa, Sandy Bolton MP
Member for South Brisbane, Amy McMahon MP
Member for Traeger, Robbie Katter MP
Member for Whitsunday, Amanda Camm MP
The Message of the Cross Indigenous Corporation*
Multicultural Australia, staff and clients
Multicultural Families Organisation (MFO)*
Mura Kosker Sorority Inc
Murri Sisters*
Dr Heath Nancarrow
Navarro Lawyers*
No to Violence
North Queensland Domestic Violence Resource Service*
North Queensland Women's Legal Service*
Northside Connect*
Lisa O'Neill
Palm Island Community Company*

* Consultation forum participant.

Parole Board Queensland
Purcell Taylor Lawyers*
Queensland Audit Office
Queensland Corrective Services
Queensland Family and Child Commission (QFCC)
Queensland First Children and Families Board
Queensland Government Statistician's Office
Queensland Health
Queensland Human Rights Commission (QHRC)
Queensland Indigenous Family Violence Legal Service (QIFVLS)*
Queensland Law Society
Queensland Media Community of Practice - Reporting of Domestic, Family and Sexual Violence
Queensland Mental Health Commission
Queensland Police Service (QPS)
Queensland Police Union of Employees (QPUE)
Queensland Program of Assistance to Survivors of Torture and Trauma (QPASTT)*
Red Rose Foundation
Relationships Australia Queensland*
Respect Inc
Rise Legal*
Magistrate Christine Roney
Dr Pankaj Sah
The Support Assessment Referral Advocacy (SARA) Program*
Save the Children*
Sera's Women's Shelter*
Sexual Assault Services, Cairns

* Consultation forum participant.

Shelter Housing Action Cairns Association Inc.*
Sisters Inside
Small Steps 4 Hannah
Southport Specialist Domestic and Family Violence Court, Magistrates, staff and service providers
The State Coroner
Grace Tame
The Advocacy and Support Centre National Ltd (TASC)
James Treanor
Torres Strait Aged Care Association
Townsville City Council*
Townsville Community Law Inc.*
Townsville Drop-in Centre Inc*
Townsville Multicultural Support Group*
Townsville Stronger Communities Action Group
Truth, Healing and Reconciliation Taskforce
UnitingCare Queensland*
Warringu Aboriginal and Torres Strait Islander Corporation*
Dr Chelsea Watego
Ms Robyn Westgate*
White Ribbon Australia
The Women's Centre
Women's Health Queensland*
Women's Legal Service Queensland
Women with Intellectual and Learning Disabilities (WWILD) Sexual Violence Prevention Association Inc., staff and clients
Youth Empowered Towards Independence (YETI)*
Youth and Family Service (YFS)*

* Consultation forum participant.

Youth Advisory Council, Queensland Family and Child Commission
Yumba Meta Housing Ltd
Zonta International District 22

* Consultation forum participant.

Appendix 3

Submission analysis codebook

Lived experience - Women

Start of relationship

- whirlwind romance
- moving in quickly (within days/weeks of knowing each other)
- making commitments fast
- spending every minute together
- love bombing
- very quick relationship
- he cared and showed affection
- charming and attentive at first
- pushed to move in
- groomed and sexually assaulted victim as minor
- persistent even after saying no
- nagged profusely
- was nice at first

Animal cruelty

- threaten to kill
- threaten to harm
- kill animals
- harm animals
- cut animals
- throw animals
- leave dead animals in vicinity

Weapons or vehicles

- drive erratically
- tailgate victim's car
- follow victim's car
- threatened with gun
- threatened with objects
- use weapons to harm

Technology facilitated abuse

- excessive messages/texts
- excessive phone calls

- creating fake profiles
- uploading intimate images online
- creating profiles on sexually explicit sites
- installing security cameras to watch family
- spyware on phones
- tracking devices placed on vehicles
- hack into government accounts

Physical violence

- assault
- fractured bones/nose/ribs
- bashed
- black eyes
- push
- twisted ears
- shoulder barged
- pinching
- choking
- suffocation
- strangulation
- burns
- beaten
- beaten with variety of weapons
- doused in petrol
- eye gouging
- hit
- kicked
- stood on
- cut
- biting
- throw
- slap
- push downstairs or out of bed
- grabbing victim or child by arms
- hair pulling
- spat on victim
- drugged

- damaging property
- doused in petrol

Sexual violence

- incest
- rape
- attempted rape
- sexual assault
- sexually assault child/ren
- grooming
- child sexual abuse (non-biological/step-children)
- post intimate images online
- share intimate/explicit images with friends/strangers/family
- exposing children/victims to porn
- forced victims to watch violent porn
- pester victim to perform sexual acts
- demanding dehumanising and degrading sexual acts
- demanding victim have sex with multiple people/strangers
- sexual assault of victim whilst asleep or incapacitated
- technology facilitated sexual abuse
- raped in front of children
- sexual assaults in public
- posting explicit images online platforms
- demand sex and refuse to leave unless complied
- pressuring, forcing or expecting sex
- film sexual activities without consent
- removing condom
- violent during sex or when sex denied

Verbal abuse

- name calling
- belittling
- threats to harm
- threats to kill
- insults
- yelling
- screaming
- slander

- defamation
- telling victim to kill herself
- taunting
- put downs
- smear campaigns
- criticisms
- bullying
- humiliate in public

Coercive or controlling behaviours

- of course your opinion counts more than anyone else
- of course I will make small changes to the way I live my life to accommodate you
- mind games
- gas lighting
- victim has to make amends
- victim in the wrong/it's their fault
- silent treatment
- persistent requests until get their way
- tantrums
- sulking
- sometimes centre of the world and sometimes ignored for days
- making victim decide between going out and perpetrator committing suicide
- victims fault if kids find perpetrator dead
- says will be somewhere and fails to show
- demands foods that victim dislikes then refuses to eat it
- begging to reconcile
- promising to change
- demands keys to house (even after separation)
- using children to gain information
- using children to make victim comply
- making victim late for work
- monitoring phone
- withholding return of children
- refusing to take care of children
- refuse to abide by parenting orders
- questioning who victim speaks to
- questioning victim whereabouts

- stalking victim
- stalking victim's family or friends
- stalking children
- hiring private detectives
- blackmail
- refuse to pay child support
- always watching
- victim having to call and send photos to prove whereabouts
- could not be alone ever
- watched victim in toilet and shower
- coercing victim to take demerit points
- making victim ask for permission
- make false complaints
- timed when going to different locations
- reproductive coercion
- spiritual coercion

Entrapment

- quick pregnancy
- joint accounts
- perpetrator financial accounts only
- taking control of the money
- loans in victims name
- assets in victims name
- turn against family and friends
- make victim give up work
- move to location away from support networks
- selling vehicles
- refusing to allow victim use of vehicle
- quick marriage
- restrictions on leaving the house
- refuse victim visits to the doctor
- control phone calls
- changing phones so victim loses contacts

Micromanagement

- told what to wear
- told who to talk to

- told where to go
- told what to eat
- told how to wear hair
- told what colour hair should be
- told to wear more/less makeup
- told how to dress
- sets down house rules and timeframes for chores to be completed
- told what to watch on television
- told to exercise/not exercise
- told what time to go to bed
- told what time to wake up

Systems abuse

- making false accusations
- continually adjourning or not turning up to court matters
- going to multiple legal firms so victim choices are limited
- vexatious complaints
- misuse of family court
- spending excessive amount on legal fees to bankrupt victim
- sending excessive communications to the victim's legal representative so victim is forced to pay additional fees for the service
- maintaining hold of all assets in victim's name to ensure they are not able to access legal aid

Financial

- withholding all access to funds
- demanding receipts for every cent spent
- blocking access to victims own money
- taking out loans in the victim's name

Lived experience – Men as victims

Physical

- beaten
- physical injury
- slapped
- scratched
- kicked
- strangulation (child)
- punched

- stabbed in leg
- throw objects

Verbal

- yelling
- threats to withhold children
- accuse of being paedophile
- humiliate in public
- belittle
- put down

Coercive control

- false accusations
- control through child support
- withhold children
- social isolation
- did not allow child to go to school
- stalking
- anonymous calls

Appendix 4: The Taskforce Secretariat

The Women's Safety and Justice Taskforce was supported by the following Secretariat staff:

Name	Position	Biography
Ms Megan Giles	Executive Director	LLB, Executive Masters of Public Administration. Megan is a lawyer who practiced in criminal, family and child protection areas of the law in private practice and within Legal Aid Queensland. For the last 16 years Megan has worked in senior executive roles primarily in strategic policy and legislative reform in the Queensland Public Service.
Ms Sarah Kay	Director	B Bus (Distinction), LLB, Grad Dip (Laws), Grad Cert (Laws). Sarah is a lawyer who has worked in private practice, non-government organisations and prosecutions in Queensland, Thailand and England and Wales. For the last 10 years Sarah has worked in the Strategic Policy and Legal Services division of the Department of Justice and Attorney-General.
Ms Carly Whelan	Principal Legal Officer	LLB (Hons), BIntBus (IntR) (Griff), GradDipLegPrac (CollLaw), LLM (UNE), MPhil (Crim) (Cantab). Carly is a Barrister appointed as a Senior Crown Prosecutor and has worked for the Office of the Director of Public Prosecutions in Queensland since 2003. Carly is also a Sessional Academic. She specialises in the areas of criminal law, evidence, criminology and criminal justice.
Ms Kathleen Christopherson	Principal Legal Officer	B.Bus/LLB (QUT), Grad Dip (Legal Prac) (CollLaw), LLM (Applied Law) majoring in Government and Public Sector Law (CollLaw). Kathleen has worked for the Queensland Office of the Director of Public Prosecutions since 2008 and is the Legal Practice Manager at the Southport Chambers. Kathleen has been awarded a Churchill Fellowship to assess the efficacy of prosecuting the offence of coercive control in the United Kingdom and Ireland.
Ms Wren Chadwick	Principal Policy Officer	BA (Government and French), Juris Doctor. Wren has worked on social justice policy and legislative reform in Australia and internationally. In recent years she has focused on domestic, family and sexual violence prevention, including as a member of the Secretariat for the Special Taskforce on Domestic and Family Violence (Not Now, Not Ever report).

Name	Position	Biography
Ms Peta Harrington	Principal Policy Officer	BA/LLB (Hons), GradDipLegPrac. Peta is a lawyer and policy officer who has worked for Queensland Government since 2018, commencing as a Policy Futures Graduate. Peta has primarily worked in domestic and family violence and child protection legal policy.
Dr Nancy Grevis-James	Principal Policy Officer	Nancy has worked in government and non-government and as a sessional academic. Nancy has over ten years of experience in researching and working in the area of police interactions with vulnerable persons, and domestic and family violence.
Ms Christine Carney	Senior Policy Officer	BA CCJ, MA(Criminology& Criminal Justice), PhD Candidate (GCI). Christine is a research and policy officer who has worked for the Queensland Government since 2014. Christine specialises in domestic and family violence and policing research.
Ms Hayley Carter	Senior Communications Officer	BA (Hons) (1.1), Grad Dip (Marketing). Hayley is a marketing and communications specialist. In her 20 year career, she has held numerous senior roles in the public, non-profit and private sectors in the UK and Australia.
Ms Kate Boyle	Business Officer	Diploma in Project Management. Kate has provided business, executive and project support in the Queensland Government for over 13 years.

Appendix 5

Glossary of terms

Term	Definition
Aboriginal and Torres Strait Islander peoples	Also referred to as First Nations peoples or Indigenous peoples refers to two distinct peoples of Aboriginal or Torres Strait Islander descent who identifies as an Aboriginal person or Torres Strait Islander person and is accepted as such by the community in which they live.[1]
ANROWS	Australian National Research Organisation for Women's Safety.
ATSILS	Aboriginal and Torres Strait Islander Legal Service.
BPCC	Brisbane Police Communications Centre.
CALD	Culturally and linguistically diverse peoples in the community who have various language or cultural backgrounds.
CCO	Community corrections order.
Coercive control	Constitutes a pattern of behaviours or 'course of conduct' perpetrated against a person to create a climate of fear, isolation, intimidation and humiliation. It may incorporate physical and non-physical forms of violence and abuse that varies in frequency and severity.
Court Link	An integrated court assessment, referral and support program that assists participants by connecting them with treatment and support services to address housing, employment, substance, health and other social needs. Support is based on risk of re-offending, needs, ability and willingness to receive help.[2]
Cross-orders	Where two protection orders have been made by a court and a person named as the respondent in one is named as the aggrieved in the second order.[3]
CRASF	The Domestic and Family Violence Common Risk and Safety Framework was developed by ANROWS in 2017 to support the trial and implementation of dedicated integrated service responses incorporating High Risk Teams in eight Queensland locations. The CRASF provides a three-tiered approach and framework for assessing risk, through common language and shared understandings of risk and domestic violence. It is currently under review by the Office for Women, Department of Justice and Attorney-General.
Criminal Code	Criminal Code Act 1899 (Qld).
CSQ	Court Services Queensland.
Cwlth and Cth	Commonwealth.
DFVP Act	*Domestic and Family Violence Protection Act 2012* (Qld)
DJAG	Department of Justice and Attorney-General.
Domestic and family violence	Also referred to as domestic abuse, domestic violence and family violence refers to behaviours defined in section 8 of

Term	Definition
	the DFVP Act 2012. These can include both physical and non-physical forms of abuse.
Domestic and Family Violence Coordinator	Dedicated officers provide consistent support, guidance and advice on domestic and family violence related matters. They are also responsible for developing and coordinating locally based policing strategies and responses in the district in collaboration with their respective district officers.[4]
Domestic and Family Violence Death Review and Advisory Board (DFVDRAB)	The Board is established under the Coroners Act 2003 to undertake systemic reviews of domestic and family violence deaths in Queensland.[5] The Board reports its findings annually.
Domestic Violence Order (DVO)	A civil order made by a court after hearing an application under the Domestic and Family Violence Protection Act 2012.[6]
Domestic, Family Violence and Vulnerable Persons Command	Established 1 March 2021 by the Queensland Police Service to develop, enhance and support the QPS capability to prevent, disrupt, investigate and respond to domestic violence and harm to vulnerable persons.[7]
DVConnect	A statewide telephone service offering free 24 hour per day, seven day a week support for victims and perpetrators of domestic and family violence across Queensland.
DV-PAF	The Domestic Violence Protective Assessment Framework is used by Queensland Police to assist officers in assessing the protective needs of a victim and supporting police officer decision making based on identification of risk factors and an assessment of a victim's level of fear.[8]
Evidence Act	*The Evidence Act 1977* (Qld)
Family Law Act 1975 (Commonwealth)	The Family Law Act governs family law in Australia, including the rights of the child and responsibilities of parents toward their child.
Family Court/Family Law Court	The Court's family law jurisdiction includes applications for divorce, applications for spousal maintenance, property and financial disputes, parenting orders, enforcement of orders, location and recovery orders, warrants for the apprehension or detention of a child, and determination of parentage.[9] The Family Court is a federal court.
Ideal victim ('not the ideal victim')	This is a term used to contrast with those who are not the ideal victim, namely people who are victimised and may also experience stigma due to other complex issues such as substance use, mental illness, complex trauma or criminal history. It may also include victims who present differently to the generalised ideal of how a victim should act.
Incident/occurrence	An incident includes when a report of domestic violence is made to police by telephone, front counter or online. An occurrence is a record created within QPRIME in response to a policing incident. A response to a report of domestic violence is recorded as a type of 'occurrence'.[10]
Intergenerational trauma	The impact of trauma experienced by one generation is transmitted to the next generation. This may be due to consequences of policy decisions such as Stolen Generation

Term	Definition
	policies, made with largely short term considerations that cause lifelong but also multi-generational trauma. Intergenerational trauma can lead to transmission of Post-Traumatic Stress Disorder symptoms and are sometimes linked to genetic vulnerability, family breakdown and impaired parenting. Interpersonal trauma such as rape, sexual abuse and criminal assault can negatively impact prenatal attachments and lead to transmission of trauma from the victim to their children.[11]
Intersectional lens/intersectionality	Multiple and intersecting layers of structural inequality (such as sexism, racism, ageism and ableism); discriminatory and oppressive attitudes; substance use, mental health issues; homelessness; poverty.
Intersectional diversity	For example, Aboriginal and Torres Strait Islander women with disability, CALD who identify as LGBTIQA+, older woman with disability.
Intimate partner violence (IPV)	Refers to violence that occurs between two people who were or are currently in an intimate relationship such as a spouse, boy/girlfriend, de-facto.
Judicial officers	Judicial officers include magistrates.
Legislation (General)	Legislation of the Queensland Parliament does not appear with the jurisdiction identifier '(Qld)' at the end of the title for example, *Human Rights Act 2019*. However, legislation from all other jurisdictions will carry a jurisdiction identifier, for example, *Charter of Human Rights and Responsibilities Act 2006* (Vic)
Lena Passi Women's Shelter	An association located on Thursday Island providing accommodation support services.[12]
LGBTIQA+	This is an acronym used to collectively describe people who are gender diverse and stands for lesbian, gay, bisexual, transgender, intersex, queer, asexual. The plus acknowledges that the acronym does not fully capture the full spectrum of diversity.
NCRVWC	National Council to Reduce Violence against Women and Children.
Not Now, Not Ever report Also referred to as the Special Taskforce	Not Now, Not Ever: Putting an end to domestic and family violence in Queensland report of the Special Taskforce into Domestic and Family Violence in Queensland, 2015. The Special Taskforce was established on 10 September 2014 to examine and make recommendations to inform long term strategies to stop domestic violence in Queensland.
Penalties and Sentences Act	*Penalties and Sentences Act 1992* (Qld)
Perpetrator	In this respect, the term 'perpetrator' refers to a person within an abusive relationship who behaves in ways designed to harm, hurt, intimidate and control the other person.
Perpetrator program	Programs that support perpetrators to identify and challenge their abusive behaviours. Programs may include alcohol and drug rehabilitative programs, community-based and provide supervision and rehabilitation. Programs provided may be

Term	Definition
	provided at the primary, secondary and tertiary level of intervention, for example men's behaviour change programs (MBCP).
Perpetrator intervention	Refers to primary prevention such as provision of information, education and support at the broad community level; secondary supports targeting people who have used violence and want to engage; tertiary interventions targeted to perpetrators involved in the criminal justice system and those requiring urgent and intensive responses.
Person most in need of protection	The Domestic and Family Violence Protection Act 2012 requires consideration to be given to the person most in need of protection where mutual allegations of violence have been made.
Police Protection Notice (PPN)	These are civil based notices issued by police at the scene of an incident, upon reports of an incident deemed to require a PPN or prior to release of a person from custody. Section 101A of the Domestic and Family Violence Protection Act 2012 stipulates when a PPN must be issued. A PPN is deemed to be an application for a protection order that provides short term protection prior to the application being heard by a court.[13]
Private Application	This is a civil application made by the victim or third party on behalf of a victim of domestic and family violence.[14]
Protection order	Is a civil domestic violence order made by a magistrate in court to protect people in domestic violence situations. Most protection orders last 5 years but can be made for shorter or longer periods of time if the court deems it appropriate.[15]
PTSD	Post-traumatic stress disorder.
QGSO	Queensland Government Statisticians Office.
QLRC	Queensland Law Reform Commission.
QPRIME	Queensland Police Records and Information Management Exchange is the data system used to record and store official police crime reports including road crashes, crime, missing persons and domestic violence occurrences.
QPS	Queensland Police Service.
QPUE	Queensland Police Union of Employees.
QSAC	Queensland Sentencing Advisory Council.
Queensland Courts	The collective term for all courts in Queensland including (but not limited to) Magistrate Court, Childrens Court, Supreme Court, Coroners Court, Domestic Violence Court and Murri Courts.[16]
Risk assessment	Risk assessments aim to capture relevant information to determine the level of risk and likelihood of severity of future harm/violence.
Safety management	This term refers to measures undertaken by relevant services to identify and implement strategies to protect a victim from further harm.

Term	Definition
Structural and systemic inequality	Refers to factors such as sexism, racism, ageism and ableism that can perpetuate violence and impede help-seeking and supports.
Systems abuse	This term refers to a perpetrator's ongoing use of systems such as court, child safety or police to continue to abuse victims either within or after the end of the relationship.
Temporary protection order	This is the term used for an urgent order for protection that can be made by the victim or police. A temporary protection order will be considered by a magistrate and issued for a shorter period of time until a full protection order application can be decided.[17]
TFA	Technology facilitated abuse.
TSIPSO	Torres Strait Islander Police Support Officer.
Victim	The Taskforce uses the term 'victim' throughout this report, both to reflect the ongoing nature of abuse involving coercive control and to honour the many lives needlessly lost to domestic and family violence and abuse.
WWILD	A service providing support to people with intellectual or learning disabilities who have experienced sexual abuse, or have been victims of crime. The service also works with families, carers and services.[18]

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[1] Australian Law Reform Commission, *Legal definitions of Aboriginality* [online, 28 July 2010]. https://www.alrc.gov.au/publication/essentially-yours-the-protection-of-human-genetic-information-in-australia-alrc-report-96/36-kinship-and-identity/legal-definitions-of-aboriginality/
[2] Queensland Courts, '*Court Link: what is court link?*' [online, 6 April 2021]. https://www.courts.qld.gov.au/services/court-programs/court-link
[3] Queensland Courts, '*what is a domestic violence order*' [online, last updated 27 June 2018]. https://www.courts.qld.gov.au/going-to-court/domestic-violence/domestic-violence-orders/what-is-a-domestic-violence-order
[4] Queensland Police Service submission, 4.
[5] Queensland Domestic and Family Violence Death Review and Advisory Board, *Domestic and family violence death review and advisory board annual report 2019-20* (2020).
[6] Queensland Courts, '*what is a domestic violence order*' [online, last updated 27 June 2018]. https://www.courts.qld.gov.au/going-to-court/domestic-violence/domestic-violence-orders/what-is-a-domestic-violence-order
[7] Queensland Police Service submission, 8.
[8] Queensland Police Service submission, 7.
[9] Federal Circuit and Family Court of Australia, *Family Law* [online, 2021]. https://www.fcfcoa.gov.au/fl
[10] Queensland Police Service submission, 3.
[11] For full discussion on intergenerational trauma see Clara Mucci and ProQuest Ebooks, *Beyond Individual and Collective Trauma: Intergenerational Transmission, Psychoanalytic Treatment, and the Dynamics of Forgiveness* (Karnac, 1st ed, 2013;2018;), 1, 135-136.
[12] Lena Passi Women's Shelter, https://www.healthdirect.gov.au/australian-health-services/20142558/lena-passi-womens-shelter/services/thursday-island-4875--confidential-address-
[13] Queensland Police Service submission

[14] Queensland Courts, '*what is a domestic violence order'* [online, last updated 27 June 2018]. https://www.courts.qld.gov.au/going-to-court/domestic-violence/domestic-violence-orders/what-is-a-domestic-violence-order
[15] Queensland Courts, '*what is a domestic violence order'* [online, last updated 27 June 2018]. https://www.courts.qld.gov.au/going-to-court/domestic-violence/domestic-violence-orders/what-is-a-domestic-violence-order
[16] Queensland Courts, '*Courts*' [online, no date]. https://www.courts.qld.gov.au/
[17] Queensland Courts, '*what is a domestic violence order'* [online, last updated 27 June 2018]. https://www.courts.qld.gov.au/going-to-court/domestic-violence/domestic-violence-orders/what-is-a-domestic-violence-order
[18] WWILD, https://wwild.org.au/