

OPEN LETTER

CALL TO PROTECT VICTIMS OF DOMESTIC VIOLENCE IN FAMILY COURTS



**Women's Legal
Services Australia**



Women
With
Disabilities
Australia
(WWDA)

**NATIONAL FAMILY VIOLENCE PREVENTION
LEGAL SERVICES**

WORKING TO ACHIEVE IMPROVED JUSTICE OUTCOMES FOR ABORIGINAL AND TORRES STRAIT ISLANDER
VICTIMS/SURVIVORS OF FAMILY VIOLENCE AND SEXUAL ASSAULT



**Human Rights
Law Centre**



FECCA



**No To
Violence**

Male Family Violence
Prevention Association

**Domestic
Violence
Victoria**

Peak body for domestic violence
services for women & children



**AUSTRALIAN
LAWYERS
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AWAVA

Australian Women Against Violence Alliance



Annie North Inc.



Federation of
Community Legal Centres
VICTORIA



Queensland Association of
Independent Legal Services Inc

**Community
Legal Centres
NSW**

Date: 26 October 2015

Senator the Hon George Brandis QC
Attorney-General
Senate
Parliament House
Canberra ACT 2600

By email: senator.brandis@aph.gov.au

Dear Attorney General

Protect victims of domestic violence from direct cross-examination in family courts

We are writing as a group of organisations that assist and speak on behalf of the most disadvantaged Australians. This is an open letter to Government calling for the introduction of legislation to protect victims of domestic violence from being directly cross-examined by their abuser in family law proceedings.

Family courts lagging behind other jurisdictions in recognising domestic violence

We have concerns that the Family Court and Federal Circuit Court have fallen behind other jurisdictions in their response to domestic violence and in ensuring that victims are safe throughout the court process.

Every state and territory jurisdiction now has legislative protections in sexual offence trials to stop an accused person directly cross-examining their victim. Similar legislative protections exist in domestic violence intervention order courts in Victoria, Tasmania, Western Australia, South Australia, Queensland and the Northern Territory. At a Commonwealth level, legislative protections were introduced in 2013 in criminal trials for slavery and sex trafficking offences.

Domestic violence victims and their children most at risk in the family law system

Many victims of domestic violence have been raped, sexually assaulted, physically assaulted, imprisoned, abducted, had threats to kill and endured years of verbal, financial and psychological abuse. Yet the family law system fails to take the steps necessary to stop further abuse and re-traumatisation when a victim is in court, giving evidence.

Complex cases that involve domestic violence and child abuse now make up a large percentage of cases in the family courts. Given the growing number of self-represented litigants in family law, the threat of direct cross-examination affects a large cohort of victims. A recent scoping survey by Women's Legal Services Australia identified over 250 victims of domestic violence either subject to or at risk of direct cross-examination in the family law system.

Victims of domestic violence are more likely to agree to a poor settlement in a parenting matter than proceed to trial due to their fear of being cross-examined by their abuser. This places children at greater risk of spending time with an unsafe parent. Protecting victims of domestic violence in the family law system has the flow on consequence of better outcomes for vulnerable children.

Building on positive first steps in addressing domestic violence

We welcome the Turnbull Government's early focus on addressing the domestic violence crisis, and the positive step of funding to support victims through domestic violence hubs.

We note the strong community support for improving the response to domestic violence. Together with other advocates, our organisations work closely with Rosie Batty, who is also firmly committed to family law reform, and with other community campaigning groups focused on domestic violence issues. We note that a survivor affected by this issue has launched a campaign on this topic, available at www.fairagenda.org to highlight the scale of public support on this issue.

Bringing the family law system in step with other courts across Australia is critical to the response to domestic violence. Legislative protection from direct cross-examination is a strong and effective measure that will support domestic violence victims and ensure that good outcomes are reached which prioritise the safety and well-being of vulnerable children.

If you would like to meet to discuss this issue in more detail, please do not hesitate to contact Women's Legal Services Australia - Heidi Guldback (08 9272 8855) or Pasanna Mutha-Merennnege (03 8622 0600).

Yours sincerely,

Heidi Guldback & Pasana Mutha
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