



*AASW(Qld) submission to the Domestic and Family
Violence Protection and Other Legislation
Amendment Bill 2016*

Submission- September 2016

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Acknowledgement

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Introduction

The Australian Association of Social Workers is the key professional body representing more than 10,000 social workers throughout Australia. Social work is founded on the principles of social justice, human rights and professional integrity. It aims to enhance the quality of life and support the development of the full potential of each individual, group and community in society through practise that is ethically accountable, professionally competent and transparent.

Social workers support, assist, and advocate on behalf of women, children and men affected by domestic and family violence. They ultimately seek to empower family members to take control of their lives and move beyond the effects of domestic and family violence. AASW members work with children, young people, adults and families to prevent family violence and assist families exposed to violence. Many of these social work roles focus on intervening before domestic and family violence occurs, supporting parenting, educating young people and influencing other social determinants of violence. As importantly, social work plays a key role in providing support and services for individuals where violence has occurred, and social work plays a key role in both direct practice intervention, and policy and research into this crucial area. As a result, Social Workers are recognised throughout the world as the core professional group in domestic and family violence policy, management and practice.

Social workers understand violence against women as a complex gendered social problem that is the result of multiple and inter-related issues across many aspects of life. The social work profession utilises a 'feminist structural ecological systems analysis' as the core theoretical and conceptual basis for understanding and responding to violence against women.

AASW Queensland Branch Submission

Provide victims of domestic and family violence with access to earlier and more tailored protection

Clause 44: The AASW Queensland Branch (herein the AASW) welcomes changes enabling information sharing between government and non-government specialist services. The changes would allow for government and non-government specialist domestic and family violence service providers to share victim and perpetrator information without consent in the situation of assessing and managing high-risk cases where there is a serious threat to a person's life, health and safety because of violence. These changes would further ensure victim safety and provide victims and service providers with a holistic assessment and intervention process.

The AASW supports the changes to information sharing in principle, however strongly recommends that prior to this being enacted, the following be addressed:

- The Department of Communities, Child Safety and Disability provide a clear definition of *high risk* to achieve commonality and consistency between the police and specialist referral agencies. This is also crucial to avoid any unintended consequences of inappropriate use of such a powerful provision.
- The AASW stresses the importance of developing a streamlined common risk assessment tool to be used across Queensland within government and non-government specialist family and domestic violence services and associated services such as health and mental health. It is recognised that the measures of risk vary

between agencies and a streamlined comprehensive risk assessment tool will aid in the identification of high-risk cases, therefore providing services with clear and specific guidelines on the information that is to be shared between agencies. The AASW is aware that Queensland Health are currently developing a suite of risk assessment tools and we recommend that a collaboration between Queensland Health and the Department of Communities, Child Safety and Disability be prioritized so that resources are not duplicated and a consistent tool be developed that can be used across the health and welfare sectors. Furthermore, the AASW recommends that we need a whole of government and sector collaboration in developing such a tool to ensure consistency that it is informed by best practice and evidence.

- That the draft guidelines that the Chief Executive of the Department of Communities, Child Safety and Disability and the Privacy Commissioner are creating in relation to how client information is shared, stored, used, retained and disposed of are provided before the commencement of the new amendments.
- Crucially, that the Department of Communities, Child Safety and Disability prioritise the development of a service that will work with involuntary referrals as it is our understanding the majority of domestic violence support services do not work nor have the capacity to work with involuntary clients.

Clause 44. The AASW supports the amendment to allow Police to refer people to domestic and family violence services without their consent in response to a serious threat and where it is not possible to or practical to obtain consent. The AASW believes that this provision will ensure that victims have the opportunity to access services to increase their safety, protection and wellbeing at an earlier stage. This process will enhance the opportunity for specialist family and domestic violence agencies to intervene before potentially fatal, violence occurs.

The AASW supports the changes associated with Police referral to a specialist domestic and family violence service without consent but recommends:

- That the Department of Communities, Child Safety and Disability provide concise and specific guidelines how the information will be shared when referrals are made between the Police and specialist agencies due to the sensitive nature of the information being shared and the confidentiality of the clients that are involved.
- Police are provided with adequate support and training to enable them to identify and acquire skills in working with high-risk clients.
- Police are provided with comprehensive training in the practical implications of the amended legislation and the processes that are involved in the new implementations.
- That when Police refer a person/perpetrator who commits domestic violence to a service that there are clear consequences for any non-compliance.

Ensure victim safety is at the forefront of the justice response to domestic and family violence.

(Clause 17) The AASW agrees with the extension of protection orders to remain in force for 5 years as opposed to 2 years. The AASW strongly agrees that the 5-year length of the order is paramount in continuing the safety, protection and wellbeing of the aggrieved, children and any other named person in the protection order. The extension of this order will also reduce the need for victims to seek extensions for their protection orders or for a new order after the expiry of their order.

(Clause 11) The AASW supports the consideration of the courts of existing family law orders and any inconsistency between the family law order and the proposed domestic violence

order. Considering these inconsistencies for victims will further support and protect victims within the judicial system.

(Clause 9) The AASW strongly supports the change in terminology related to voluntary intervention order to intervention order.

The AASW supports the changes in relation to terminology, length, considerations of family law orders and the contradictions associated with those and domestic violence orders and the definitions of domestic violence. The AASW strongly proposes that the judicial system, including solicitors, magistrates and court services are provided with targeted and comprehensive training for working with victims of domestic and family violence. The AASW strongly recommends:

- That a specialist integrated court and support model be broadened to be accessible across Queensland.
- Those professional development opportunities for magistrates, solicitors and associated court staff working within the domestic and family violence sector are implemented to compliment the amendments of the justice response. Combining specialist training within the justice area will allow magistrates, solicitors and associated court staff to gain a greater understanding of the complexities of domestic and family violence, therefore informing the decision making process and providing safer outcomes for victims.
- That a review of the *Domestic and Family Violence Protection Act* occurs in 2 years time to evaluate the proposed amendments and to re-evaluate further amendments once the Bill has commenced.

We note that there is currently a high demand on services in the domestic and family violence sector and during our consultation process some services have stated that they were not able to participate in this legislative consultation process due to the limited timeframe available. The AASW proposes that with the next amendments to the *Domestic and Family Violence Protection Act* more time is given for submissions to allow organisations working within the sector time to examine proposed amendments to the Act and to produce a formalised submission. This practice based evidence is key to informing the effectiveness of such a key piece of legislation.

Require police to consider how immediate and effective protection can be provided to victims pending a court's consideration of an application for a domestic violence order (DVO).

Clauses 19, 32 and 45. The AASW welcomes the new provisions of the immediate protection and expanding the operation of the Police protection notices, importantly that perpetrators are held accountable in the period between Police attending an incident and the court hearing an application for a protection order. Specifically, the AASW welcomes that the enforcement of Police protection notices is consistent with the enforcement of a domestic violence order, that there is an alignment of the penalty of breaching a Police protection notice and domestic violence order. The AASW supports that Police protection notices can now include the protection of the victim's children, relatives and associates and that the new amendments to police protection notices allow for tailored conditions for victims that include excluding a perpetrator from the family home and/or preventing them contacting the victim or their children with consideration of any family law orders that are in place.

(Clause 4) The AASW strongly supports the changes made to the examples of behavior that

constitutes domestic violence. This clarifies that a wide range of behavior including threatening behavior as well as fear that the respondent will commit domestic violence against the victim, thus offering further protection to victims experiencing domestic and family violence.

The AASW supports the changes associated with Police protection notices and the clarification of what constitutes domestic and family violence. However, to strengthen this in practice, it is imperative that the legislation is scaffolded with a training suite that provides training to Police and other judiciary personnel to ensure understanding.

Therefore, the AASW recommends:

- Police and the judicial system be provided with ongoing, adequate, and comprehensive domestic violence training that provides specific training in relation to working with victims and perpetrators from Culturally and Linguistically Diverse and Aboriginal and Torres Strait Islander backgrounds in a culturally appropriate way; working with women who have disabilities; and comprehensive understanding of the dynamics of family and domestic violence, within the context of the new amendments.
- That Police and the judicial system be provided with adequate and comprehensive support and training with the application of legislative changes in relation to police protection notices.

[Provide for the automatic mutual recognition of domestic violence orders \(DVOs\) made in other Australian jurisdictions through the National Domestic Violence Order Scheme \(NDVOS\).](#)

(Clause 51) The AASW supports the implementation of the National Domestic Violence Order Scheme (NDVOS) but proposes that clearer guidelines and timeframes on the introduction of the NDVOS need to be provided. The AASW requests that the Department provide information in relation to how and who will be involved in the implementation process.

[Hold perpetrators of violence more accountable and encourage them to change their behaviour.](#)

(Clauses 45 and 46) The AASW supports the increased penalty for breaches of Police protection notices and release conditions to achieve consistency with the penalties for breaching of domestic violence orders. The AASW believes that this consistency enhances accountability of the perpetrator and reflects a zero tolerance towards violence within the community. The AASW understands from members that there is still confusion around technical breaches.

The AASW therefore recommends:

- Further clarification is provided around the lack of consistency in relation to the definition of a technical breach within the amendments.

The Queensland Taskforce recommended the need to increase perpetrator participation in intervention programs and that perpetrator intervention is critical in the overall plan to address domestic and family violence. The AASW welcomes the amendment to 'omit' the word voluntary from Clause 9, however, it is our belief that there are several barriers that are not adequately addressed in the current proposed amendments in relation to perpetrator

behaviour change programs. These include:

- We understand that there are no consequences for when 'Intervention Orders by Consent' are not adhered to. It is our position that there is an opportunity for therapeutic jurisprudence should the magistrate be able to require the respondent to return to the court following the issuing of an 'Intervention Order by Consent' to report on the outcome of attending a program.
- We understand that consenting is not able to result in prosecution and for any real intervention to be affective there needs to be ability to compel some perpetrators to undertake programs to address their behaviour. We understand that provisions exist for mandated attendance at intervention programs can be ordered at the point of a breach of a domestic violence order being prosecuted. However, it is our position that for an 'Intervention Order' to have any real impact there needs to be consequences relating to contravention, beyond simply reporting the contravention to police or the court (as is the current situation with 'Intervention Orders by Consent').
- It has come to our attention from members that in some areas across Queensland magistrates refuse to meet with Approved Intervention Providers; while others openly hold negative views about programs for respondents and others will not issue orders by consent. For this legislation to be effective in addressing domestic and family violence all key stakeholders need to support its implementation.
- The AASW recommends that an additional clause be included (in addition to Intervention Orders by Consent) that provides magistrates with the power to mandate respondents to attend programs and that to contravene this mandated order would be considered and treated as a breach for situations where it has been assessed as high risk.

Conclusion

The Australian Association of Social Workers has welcomed the opportunity to make submission to the *Domestic and Family Violence Protection and Other Legislation Amendment Bill 2016*. The AASW is committed to working with the Government to address the problem of domestic and family violence and welcomes the opportunity to contribute further.