

### Supplementary questions for Domestic Violence NSW

#### 1. What are the impacts on children when they are the subject of hearings in multiple jurisdictions?

There is limited research available into the impacts of children when they are the subject of hearings in multiple jurisdictions. There is however, substantial evidence demonstrating the stress and fear caused by interactions with the family court due to family violence, “The uncertainty about the nature of their engagement in the family law process compounded the stress and distress that some children and young people experienced when interacting with family law professionals more generally, with this stress and distress palpable at the time that these interactions were recounted.”<sup>1</sup>

A victim-survivor, Anna, notes some of the impacts in a research project interviewing adults who experienced the family court as children.

*Um, it really affected us, because everyone was always angry, and [the family court] just made everyone fight all the time. And it was scary going to my dad’s house, and my brother would get really traumatised about going, and try and hide, and [it] was just—trauma.*<sup>2</sup>

In her interview Anna also speaks about the lack of contact with her ICL, ineffectual actions to address safety concerns and the stress of the protracted court process.

A 2018 study with children and young people interacting with the family court system suggest that a child-inclusive approach be adopted incorporating the features of effective professional practice outlined above and following an approach that:

- enables the relevant children and young people to contribute to and be accurately heard in the decision-making process and to be kept independently informed of the nature and progress of this decision-making process,
- provides a clear and accurate explanation of the decision made
- provides access to ongoing therapeutic support and assistance as required
- accommodates the potential for flexibility to change parenting arrangements and have ongoing and meaningful communication.<sup>3</sup>

#### 2. What level of demand does the Women’s Domestic Violence Court Advocacy Services (WDVCAs) experience, and does the service have the capacity to support many protective mothers in this area?

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<sup>1</sup> Carson, R., Dunstan, E., Dunstan, J., & Roopani, D. (2018). *Children and young people in separated families: Family law system experiences and needs*. Melbourne: Australian Institute of Family Studies, p. 57

<sup>2</sup> Nelson, C. (2022). *“They thought it was safe – but it wasn’t” Recognising Children’s Rights as a Means of Securing Children’s Safety in Australia’s Family Law System*. Whitlam Institute Syd

<sup>3</sup> Carson, R., Dunstan, E., Dunstan, J., & Roopani, D. (2018). *Children and young people in separated families: Family law system experiences and needs*. Melbourne: Australian Institute of Family Studies, p. ix.

In the financial year 2021-22, WDVCSs supported 55,341 women across 27 locations; a 3.4% increase in the number of clients supported compared with the previous financial year.<sup>4</sup> Family Advocacy Support Services supported 1,619 across the four funded locations.<sup>5</sup> WDVCSs experiences a very high number of protective mothers in this area. Unfortunately, their capacity to assist clients in these matters is incredibly limited. Their main referral point is back to the client's family lawyer or to the federally funded co-located service, the Family Advocacy and Support Service, which is currently being expanded state-wide. WDVCS staff often report feeling very powerless when clients are involved in hearings in multiple jurisdictions, as there are incredibly limited opportunities to assist other than emotional support.

**3. Have your members and the women they support encountered challenges with the use of professional evidence in the Family Court?**

- a. For example, are redactions made to children's psychological reports or evidence submitted by the NSW Department of Communities and Justice, such that they are no longer useful in considering children's safety and wellbeing during family law proceedings?**

DVNSW do not have sufficient evidence available to answer this question.

- b. Do expert witnesses in the Family Court generally support the claims of protective parents?**

DVNSW members have indicated that there are certainly Family Consultants and Single Experts who support the claims of protective parents, however if asked if this is generally the case, DVNSW would say no. It is not a requirement for these consultants to have knowledge, training or experience in the complex area of domestic abuse. There are frequently reports and memorandums where it is apparent that the expert is not aware of behavioural patterns of coercive control, emotional or psychological abuse. These witnesses frequently support the perpetrator and even place blame on the victim, playing into incidences of systemic abuse in the Family Court. It should be acknowledged that the Family Court is undertaking work to address these issues, including training for all the Judicial Officers and Child Experts of the Court.

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<sup>4</sup> Legal Aid Annual Report, 2021-22.

[https://www.legalaid.nsw.gov.au/\\_data/assets/pdf\\_file/0019/53335/Legal-Aid-NSW-Annual-Report-2020-2021.pdf](https://www.legalaid.nsw.gov.au/_data/assets/pdf_file/0019/53335/Legal-Aid-NSW-Annual-Report-2020-2021.pdf)

<sup>5</sup> Ibid