

31 May 2024

Australian Law Reform Commission
PO Box 209,
Flinders Lane VIC 8009

Dear Commissioner,

**Re: Family and Domestic Violence Legal Workers Network (FDVLWN) Western Australia (WA)
Response to Australian Law Reform Commission (ALRC) Issues Paper: Justice Responses to Sexual
Violence**

Introduction

Background to the FDVLWN

The WA Family and Domestic Violence Legal Workers Network (FDVLWN) welcomes the opportunity to make this submission to the Australian Law Reform Commission in relation to their Issues Paper for the reform of the response to sexual violence for victim-survivors across Australia.

The FDVLWN is comprised of members of legal assistance services operating in Western Australia (WA). The FDVLWN provides a mechanism to coordinate systemic advocacy, training and reform for the Community Legal Centre (CLC) sector. The FDVLWN shares information, promotes and organises professionals to assist building the capability of Network members, and leads the preparation of submissions relevant to the Network.

The FDVLWN is convened by Women's Legal Service WA (WLSWA). WLSWA is a specialist gender-specific community legal centre, providing services to women around WA who are financially disadvantaged, prioritising women experiencing family, domestic and sexual violence (FDSV). In addition to poverty and FDSV, WLSWA clients live with multiple vulnerabilities that creates other barriers to accessing justice. WLSWA aims to empower women to make informed choices and participate fully in legal processes that impact them and their children. WLSWA also advocates for women's rights to be upheld and fosters social change through education and policy reform.

FDVLWN member CLCs offer a range of legal services, including: specific FDSV services for women, representation to Respondents to FVROs, representation for Family Law matters, criminal injuries compensation matters, or representation to clients in criminal matters. Collectively our organisations have significant knowledge and practical experience relating to the experiences of victim-survivors and perpetrators of sexual violence.

Acknowledgments

We acknowledge the Traditional Owners of the country on which we live and work, the Whadjuk people of the Noongar nation, and pay respects to their Elders past and present. We also endorse this statement from the National Plan to End Violence against Women and Children 2022-2032:

Victim-survivors must be at the heart of solutions. Victim-survivors have specific and contextual expertise that comes from lived experience of abuse and violence. They have intimate firsthand knowledge of services, systems, and structures that are meant to support

them but have sometimes failed them. They know from experience the weaknesses and strengths of interventions in practice. (p68)

We cannot develop effective solutions to FDSV without the input of the people most affected by it.

Background to the submission

This year has marked a pivotal shift in the WA discourse on FDSV with the implementation of the Family and Domestic Violence Taskforce and Lived Experience Reference Group. We are heartened by the Government's commitment to taking a whole of Government approach to addressing sexual violence experienced across the life course of victim-survivors – from primary prevention, perpetrator accountability, improving the criminal justice system experience for victim-survivors, to recovery and support. We need long-term investment in preventing family and domestic violence.

We have reviewed the Issues Paper in light of the current legislation and the State and Australian Governments' commitments to addressing FDSV and make the comments below in relation to issues of key interest or relevance to the clients of our respective legal practices.

We would like to raise some **broader concerns** which underpin our responses to questions in the issues paper.

- CLCs in WA have recently contributed to a significant number of state-based and national consultation processes. Despite the extensive resources these utilise, there has been a general lack of outcomes from these consultations. Coupled with delays in confirming ongoing funding by both State and Commonwealth governments, this has resulted in consultation fatigue and uncertainty regarding future funding and impact of revised government policy directions.
- We have a concern that nationwide consultation may result in practice and policy directions that meet the lowest common denominator, or the 'most likely to be implemented by most', rather than the best possible practice.

Where possible, our response to each of the consultation questions outlined in the issues paper has been guided by the following **underpinning principles**:

- A demonstrated and ongoing need for a systems approach to responding to sexual violence, including consistent and appropriate support for the victim-survivor throughout the process;
- Prioritising access to legal assistance for victim-survivors, including legal assistance to navigate the criminal justice system and to assist with intersecting legal issues, from when a victim-survivor is considering whether to report through to the end of their legal matters;
- A need for an approach which is culturally secure, trauma-informed, and consistent across Australia;
- A need for well-trained, well-supported and well-resourced specialist staff across the justice system, with training assumed to be in-depth and ongoing;
- The need for each of the responses to consider a dedicated/bespoke and appropriate regional/remote response which is culturally safe for Aboriginal and Torres Strait Islander Peoples, and overall relevant for WA and other parts of Australia with very remote service delivery;
- The importance of acknowledging the nuances of responding to the needs of clients with intersectional experiences of FDSV, including gender diverse or queer clients or clients in non

hetero-normative relationships, clients from culturally, ethnically, linguistically, or faith diverse communities, clients who also have additional needs relating to their mental health or dependence on alcohol or other drugs, clients with disabilities, clients who need literacy supports and many others;

- Ongoing legislative reform which retains a focus on broader cultural change and systems reform towards having trauma-informed, culturally safe and gendered violence-informed systems – with the purpose of both increasing conviction rates through the criminal justice system, and also improving other outcomes for victim-survivors.
- Recognising where sexual violence occurs in the context of domestic and family violence, we need responses that are tailored to this, as well as recognising intersecting legal issues that are likely to co-occur such as domestic violence orders, family law, child protection, victims of crime compensation, migration law (partner visas). In particular, it is important to note that sexual violence in this context is not usually a single incidence or incident, is also undertaken as part of a broader pattern of abuse, violence and control, and has wider and complex impacts on the lives of the victim-survivor and their children.

In addition, FDVLWN is concerned that important ***aspects of the justice process were not included in this review***. Specifically the impact on the victim-survivor of the following justice processes were not included in this review:

- the scope of the Criminal Code in relation to sexual violence offences;
- post-sentencing;
- impact of acquittal, time served or spent conviction;
- parole;
- monitoring of dangerous sex offenders;
- sex offender register;
- post sentence supervision orders;
- treatment during corrections - community or imprisonment orders; and
- impact of civil litigation regarding defamation, in combination with media publicity (on the individual victim-survivor, their family and friends, and the wider community).

These remain significant concerns for victim-survivors as they have high level and ongoing implications for their day-to-day safety, wellbeing, and logistics of managing their day-to-day family and working lives.

Formulating the FDVLWN response

The FDVLWN has consulted with lawyers and policy staff across the WA CLC sector and has built on work previously undertaken by Women’s Legal Services Australia (WLSA), and other submissions to government by the FDVLWN.

Where possible, we have included a response to each of the questions included in the issues paper. However due to time and resource constraints, as well as the specific experience held by members, not all questions have been responded to.

The network has endeavoured to include relevant short case studies where possible. These are largely following the experiences of lawyers or support workers responding to the needs of clients. Where a case study is included as evidence against a particular question, these are numbered as

separate case studies. Note that these represent a smaller number of cases, with components included across the response to different parts of the justice system. One client was approached at one member service, and her views are represented as separate case studies in each question.

Response to questions raised in the issues paper

Q 1 - Key issues relating to victim survivor disclosing or reporting sexual violence to police or services.

FDVLWN member CLCs have provided several case studies in response to this question.

Case study 1 (legal service response) - The victim-survivor initially told her partner and then called a friend to get transport to the hospital. Later her family was contacted. When she arrived at the hospital she was sent home for hours and was unable to shower as there was no test kit and specialists available in town. Someone had to be flown from Perth and the client had to wait until those arrangements were made and the individual made it to the town (approx. 1500km from Perth). This was extraordinarily traumatising for the client. The victim-survivor was forced to remain in situation where she was unsafe and uncomfortable. Her parents explained this was the first system failure and it was traumatising for the family who had to physically prevent her from having a shower.

Case study 2 (victim-survivor response) - I called a crisis rape hotline, as a last resort as I didn't know where else to go for help. They advised me that there is no limitation on when I could come forward and report my assault. I felt very supported and empowered by the phone conversation and it led to me going to Police later that afternoon.

Case study 3 (legal service observation) - police response was not helpful as they minimised the victim-survivor's complaint and made her feel like it's nothing because she was in a relationship with the OP.

Case study 4 (legal service observation) – Victim-survivor presented to a lawyer at a health justice partnership as a referral from SARC. The woman's husband had sexually assaulted her on multiple occasions. She had never engaged in any legal services or other victim-survivor support services and was seeking information on making a FVRO after indicating concerns of disclosing her address. Her husband pushed her out of their home after an incident where he sexually and physically assaulted her. Victim-survivor went to the police and they declined to charge due to lack of evidence. Victim-survivor was not informed of any victim support services and is currently couchsurfing. Lawyer referred client to legal support for tenancy issues and for FVRO. A significant barrier to the client obtaining an FVRO was a concern that the other party would become aware of the address where she was staying, in addition to fear of not being believed following her experience with the police.

Many other victims do not recognise their experience as sexual violence, have significant distrust of the system to appropriately deal with the situation or do not understand the process. Further in situations of FDV if the partner is controlling attending any facility that will assist in the process (hospital, GP, sexual assault service, police) is unviable.

Q 2 - Impact of any new practices in WA relating to reporting sexual violence.

WA Police have recently introduced their Safe2Say platform where victims and survivors can anonymously make reports of sexual violence to specialist sex crime investigators. To date, FDVLWN members have not noted any clients who have reported sexual violence via this method. Providing options to victim-survivors for reporting and being able to do this through writing down their story anonymously is a positive step. Potentially WA Police may need to enhance their marketing regarding this service, particular to sexual assault service providers.

WA Police have also recently introduced drink spiking kits available in police stations. People can request a kit without having to make a formal report. Similar to Safe2Say, overall public awareness of this service appears to be low.

Q 3 - Improving access to the justice system for victim survivors reporting sexual violence.

FDVLWN member CLCs have provided several case studies in response to this question.

Case study 5 (victim-survivor response) - There needs to be a webpage on a government website that can be easily found with a quick exit which lists support services and how to report to Police. (Before speaking with us the client was unaware that this existed). Instead of going in person to Police, there could be section online where you could lodge a request for Police to come to your house to take your statement.

A victim-survivor will likely interact with many different agencies and organisations, from the time of the sexual violence occurring, to providing evidence at a trial. Victim-survivors are required to tell their story repeatedly, to receive medical treatment, report the sexual violence to police, seek legal advice about the court process, FVRO/VROs and compensation, seek counselling, receive assistance to prepare a victim impact statement, engage with support services for risk assessment and safety planning. Due to confidentiality requirements and operational policies of these agencies and organisations, information sharing is limited, and it leads to ongoing re-traumatisation for the victim-survivor.

Social support organisations are best placed to case manage victim-survivors. Suitably trained advocates/social workers can support a victim-survivor throughout the entire process, providing counselling, undertaking safety planning, attending the police with them, providing/arranging outreach legal assistance, liaising with Victim Support Service and attending court with the victim-survivor as a consistent support person.

Examples of such organisations in the metropolitan region of Perth include SALSWA, Ishar Multicultural Women's Health Services, Naala Djookan Healing Centre and the Women's Resource and Engagement Network (WREN) at Northern Suburbs Community Legal Centre.

Regional and remote areas still lack the resources and specialised personnel to deal with sexual violence cases, especially cases entrenched in deeper systems of gendered abuse.

In the case of now-adult victim-survivors of child sexual violence and CaLD victim-survivors, more work needs to be done in the early-intervention stage, by providing thorough education on what sexual violence is, and by providing appropriate referrals to support services.

Q 4 - Ideas for improving safe reporting of sexual violence in the justice system.

Some suggestions include:

- Readily available resources and specialist and at least one trained women/female nurse and one man/male nurse specializing in sexual violence available at every hospital. This should be partnered with on-call support services in remote/regional locations to attend the hospital/police station when the assault is initially being disclosed.
- Clients would find the provision of soft rooms in hospitals and police stations more conducive to disclosing, reporting, and going through any testing. Further, if they are engaging with social/support workers, this is a common and familiar space for them to continue to return to during the process.
- Legislative reform to provide absolute immunity from defamation for people who make sexual violence complaints to police and regulatory bodies.
- Increased access to restorative justice approaches and alternative reporting options where appropriate.

Case study 6 (victim-survivor response) - More women's hubs/ community-based programs. I never had an opportunity until recently to be involved with community organisations where I could access multiple services at Naala Djookan and WREN, and not have to expose myself at multiple places.

Q 5 - Victim survivor experiences of police responses to reports of sexual violence.

Case study 7 (legal service response) – In one case, the police were called from the hospital by the hospital staff.

Case study 8 (victim-survivor response) - - When this offence first occurred, I was not aware that what happened to me was an offence. I didn't get a lot of sex education growing up and I was young when the incident occurred. I didn't know about saying no, about consent. It took me many years to realise it wasn't okay. There was 7 years between the assault and me reporting to it Police. I knew that I had experienced FDV perpetrated by the abuser, but I did not know I was also a victim-survivor of sexual assault.

Case study 9 (victim-survivor response) - I didn't know if you could walk into a Police station to make a report. The first detective who took my statement screwed up her face when I told her this and she asked what I meant, and that I could have come in at any time. The assistance I received from the Police was somewhat satisfactory. There was conflicting information from Victim Support Service and Police, who made me feel like I wasn't being taken seriously. The Police have made comments stating my abuser had "changed", that he is a "different person now". Police spoke to me about moving on with my life and not staying in the past. I was asked to provide a list of my entire sexual history, from when I was a child, and that it needed to be in my witness statement. I was later informed by police that they didn't actually need this, removed it from the statement and this ordeal made me feel like I was being 'slut-shamed'. Police need to have an understanding that this person has been through one of the most traumatic things in their life, and if you retraumatise them, it might be the last thing they experience, anything can tip them. The Police making unannounced visits to my house and speaking down to me made me feel horrible for coming forward. It was almost as worse as the assault. They made me feel like I was ruining my abuser's life.

Q 7 - Ideas for improving police responses to sexual violence.

Overall, FDVLWN supports the WLSA Systems reform priority that there be increased and targeted recruitment of female police officers, alongside a framework to ensure that victim-survivors have an accessible, trauma-informed, culturally appropriate place they can go to report/disclose violence (noting that this place might not be a police station), as well as increased oversight and accountability of police. It is important that there is consistency with approaches to implementing key policies across police districts and other related services.

Case study 10 (legal service response) – A client attended the police station in a regional location to report a range of FDV offences. This was the first time she disclosed the abuse and she was told by the attending officer that he knew the abuser and “he is a good guy, I go to the gym with him”. Creating more consistent responses to disclosures increases trust in the police and reduces issues around small-town connections.

Case study 11 (victim-survivor response) - You can't have Police rocking up victim's houses without warning. Whenever I would ask several questions, they would ignore most of it and answer one part. Police need adequate training and they need to be empathetic. I was made to feel caught off guard, making me doubt my innocence. I felt like I could not have a support person with me, and I felt silly for wanting support person to be with me in my contact with Police. Police gave me a family violence contact card and this made me feel as though the police were just wanting to 'tick a box', rather than ensuring that I was linked in with appropriate support services.

Case study 12 (legal service response) – At the first point of contact with police, this is when there needs to be a genuine engagement with social support services. Stations where there are Family Violence Response Teams have relationships with these support services and provide facilitated referrals on behalf of the victim-survivor for them to receive appropriate legal and non-legal support.

Other suggestions from FDVLWN members included:

- Prior to making report/statement, police should be able to give 'advice' to the victim, or have a support person do this, so the victim-survivor understands the process before deciding to report. They should also be advised of their ability to report later. This gives best-information and allows the victim-survivor to take some control over the situation when they are fully informed and any disclosure at a police station triggers immediate attendance of the FDV RT team - either Police, Child Protection or DV worker to support victim-survivor during this process.
- Police require better training on gendered violence and sexual violence that creates more consistent responses to disclosures and more positive attitude to persons wanting to report or seek support.
- For other police stations, victim-survivors are simply provided with a list of numbers that they can call and are then sent on their way. In the absence of FDV Response Teams, the IO should be the one to make a facilitated referral on the victim-survivor's behalf, rather than leaving the victim-survivor to feel dismissed and stuck on a 'referral merry-go round'.

Q 8 - Victim survivor experiences with ODPP.

Case study 13 (legal service response) -When attempting to advocate for a particular client, accessing the ODPP was impossible and lots of hurdles were put in place. Advocates for victims should have greater recognition. Advocates have a great deal of knowledge and understanding of the client's case and the system and can make the process much easier and safer for the client. It can also increase engagement when the client has a non-system related person.

Q 10 - Ideas for improving ODPP responses to sexual violence.

Suggestions include:

- As soon as victim-survivor is picked up by police and the ODPP, they should be referring to the local services for support- similar to the way the FDVRT DV police can share information with relevant stakeholders for the support of victims of FDV.
- Currently in WA, complainants only have 7 days from the date of a ODPP decision to request a review. This is not a lot of time and should be longer.

<https://www.wa.gov.au/organisation/office-of-the-director-of-public-prosecutions-western-australia/request-review-of-odpp-decision>

Q 11 - Impact of special measures on victim-survivor experiences in court.

Case study 14 (legal service response) – The client and her family was allocated to a ‘safe room’ which was an interview room for lawyers. There were not enough chairs for the family to sit on and her siblings were sitting on the floor. When the client was taken through to give evidence she was taken into the back area of the court, and after the evidence was given she was taken back outside the court. The offender and his family then walked past her which retraumatised her.

Although there are options for ‘special witness’ which allows the victim-survivor to be located in another area of the courthouse, regional/remote court and justice precincts are small and do not have the adequate facilities to fully protect the client and consider the emotionally challenging and fragile state victims are in when testifying.

Safe exits, or two door exits for rooms would be beneficial to victim-survivors when testifying- similar to Child contact centres.

Q 13 - Ideas for improving court processes to support victim-survivors giving evidence.

Suggestions include:

- When the client has a support person who sits behind or beside the client, this in no way is supportive of the client. The role of the support person is to make the person feel safe and give them someone familiar to be with. If the rooms were designed to allow the client to choose the seating, especially for longer cross-examinations and be able to see their support person, this would create a level of safety during the process.
- Alternatively, the cross-examination could occur in the soft room where lawyers would be able to take off their jackets, the Magistrate would be present and it would be a more informal process. This would reduce the power position of the Magistrate, and lawyers. The victim-survivor has already had their control and power taken off them at multiple stages leading up to this point and gives them some equality back in the process.

- This could be replicated for clients in FVRO hearings. Small court wait-rooms typically leave the applicant sitting across the room from each other, and in some cases next to, or facing their abuser. If Magistrates were able to host ex-parte hearings in similar soft rooms, this would increase the rate of vulnerable people attaining FVROs.
- Victim-survivors should be provided with a 'walk-through' of the court setting, prior to attending trial as a witness. This will allow them to be familiar with the court layout and learn how the proceedings will take place, where they will sit etc, alleviating some stress. While this may already happen on an ad hoc basis, it should become a consistent part of the process.

Case study 15 (legal service response) – Victim-survivor attended court with the support of the Victim Support Service (VSS), which is heavily reliant on volunteer support workers. On the day, the VSS support worker was a volunteer who was older in age. The victim-survivor was not aware of the support worker's qualifications, making her concerned that the volunteer might be negatively affected by hearing about the graphic nature of the abuse. Consequently, the victim-survivor was reticent with relating the details of her situation prior to the court hearing.

Q 14 - Experiences of police recordings of victim-survivor interviews.

Case study 16 (victim-survivor response) - *The Police typed out my statement. In the times they came to my house, they wore body cameras.*

Q 15 - Lawyer experiences of changes to audio visual evidence.

FDVLWN supports the WLSWA legislative priority that WLSA – legislative priority that victim-survivors should be able to use VAREs (police interviews) or pre-recorded evidence as their evidence in chief, as well as allowing victim-survivors to provide additional evidence after their evidence is pre-recorded (for example, through a written statement), as well as allowing pre-recorded cross-examination and re-examination.

Case study 17 (legal service response) – *The client provided evidence at her first trial and this was recorded and used at the retrial. She was then cross-examined at the retrial. The use of the recorded evidence was a positive for the client in this situation.*

Enhancements which enable visually recorded statements to be used as evidence in court can be beneficial, where that is appropriate and in the best interests of the safety and wellbeing of the victim-survivor or witness. However, for this to be effective, fair and appropriate, we propose that a number of key considerations should be made during the implementation:

- When being facilitated to make a visually recorded statement, victims or witnesses should be filmed being provided with and showing that they understood clear instructions about the purpose and potential uses of the recording and the risks of including statements which would potentially incriminate them in other ways (e.g. admitting to drug use, which could have the consequence of a drug charge, or a consequence in a Family Court or protection and care matter);
- The directions given by police should be consistent and appropriate, and based on standardised instructions developed in consultation with victim-survivor support services;
- As outlined in the proposed Act, visually recorded statements should be taken only by specially trained/qualified, and appropriately ranked police officers;

- Victims or witnesses should be allowed and encouraged to make their own concurrent recording at the time of the interview for their own records;
- Victims or witnesses should be given the opportunity to have a lawyer present, or be able to speak with a lawyer on the phone through an appropriate service prior to giving the statement;
- Victims or witnesses and their lawyers, or the witness intermediary service (if applicable), should be able to receive a copy of the relevant recording as soon as practicable after it is made, including sufficient time for issues to be resolved;
- Clear processes need to be in place to provide additional consent at the time of the court hearing, or during a voir dire hearing to ensure that irrelevant sections are not included in the recording played at court; and
- Regulations regarding the recording of a statement could potentially require that police include a description of the setting and circumstances, as well as a list of persons present, and their relationship to the situation. We believe this may assist in interpretation of the statement and reduce the possibility of confusion, or intimidation by others, especially when a recording does not effectively record visual components.

FDVLWN support procedures which can enable a complainant or witness to apply to the court to prevent the accused from viewing the visually recorded statement. It would be more suitable to provide a transcript only to the accused, and allow defence lawyer to view the visually recorded statement. This could alleviate some safety concerns in some instances, and also reduce the likelihood of a witness withdrawing their statement due to feeling intimidated by the idea of the accused viewing their statement. In our view, this is a more trauma-informed approach, which ensures the victim-survivor is not adversely impacted by not being fully aware the accused will have access to the visually recorded statement before court proceedings commence.

- Currently, the court can still declare that a victim-survivor of a sexual offence does not get to use pre-recorded evidence despite the knowledge that victim-survivors suffer severe emotional trauma, distress and intimidation from giving evidence and facing their perpetrator. Proposed revisions to the WA Evidence Act may address this.
- Currently, pre-recorded evidence can only be used by victim-survivors of serious sexual offences (not all sexual offences) and where the victim-survivor has been deemed a special witness. Proposed revisions to the WA Evidence Act may address this.

Q 16 - Experiences of using an intermediary service.

There is no specific intermediary service currently available in WA. VSS is available, but it is not well resourced and can only cover certain Courts such as Magistrates Court. There is a need to expand their capability.

Proposed amendments to the Evidence Act support communication directions in criminal and child protection proceedings via ground rules hearings or via witness intermediary or via agreement for certain types of witnesses. As currently drafted, the proposed Act may not be sufficiently clear regarding the eligibility of witnesses for whom a communication direction is applicable. Nor is the eligibility of witnesses for witness intermediary service sufficiently clear.

Case study 18 (legal service response) – The client did not have access to an intermediary in the first trial and in the retrial, the victim-survivor was supported by the local Family and Domestic Violence

Advocate. The client was a sexual assault victim-survivor but not of FDV. The advocate stepped out of their contract scope to provide the required support to the victim.

Q 17 - Lawyers experience of intermediary scheme

FDVLWN strongly supports provisions to develop a witness intermediary service in WA, as this will significantly improve the experience of vulnerable witnesses in court hearings. Key components should be in place to ensure the success of the service, as follows:

1. *Qualifications of witness intermediaries*

Witness intermediaries should be:

- professionally accredited by a relevant body;
- have relevant tertiary qualifications and additional relevant training;
- subject to ongoing professional developments to ensure the knowledge and skills of witness intermediaries are current; and
- subject to ongoing assessment of their professional skills and knowledge.

More specifically, witness intermediaries should be:

- an accredited, qualified professional, who is -
- qualified and trained in both –
 - specialist communication skills, including an in-depth knowledge and skills relating to trauma-informed services, FDSV, alcohol and other drugs, mental health, disability, Aboriginal and Torres Strait Islander cultures and the needs of culturally, ethnically and linguistically diverse communities, and
 - legal skills and knowledge relating to providing evidence, including knowledge and skills relating to the wider impacts of interactions with the justice system as a witness.

Training in FDSV is crucial for witness intermediaries as this ensures they are working in a trauma-informed manner; understand the nuances of FDSV; will better support victim-survivors to provide evidence; and assists in preventing further trauma or re-traumatisation.

We suggest that a witness intermediary be qualified as either:

- a social worker, psychologist, health professional but with additional training and qualifications relating to legal services; or
- a lawyer with additional qualification relating to advanced communication skills.

Regulations need to allow for the independent professional responsibilities and accreditations that a witness intermediary may also be subject to, should they be, for example, a qualified lawyer, an accredited psychologist, an accredited social worker, or other.

Notwithstanding the need for both advanced counselling and legal knowledge described above, FDVLWN members are supportive of a system which encourages a large pool of witness intermediaries to be available, as this increases the likelihood that victims of crime will have access to appropriate supports when giving evidence.

2. *Resource constraints*

There remain some concerns that should there be resource constraints in the witness intermediary scheme, there may be limitations to the service, which may potentially cause confusion or disappointment when a witness intermediary is not ultimately made available. It is suggested there be procedures which enable a fully transparent view of the ongoing capacity of the service. For example, up-to-date publishing of the number of people on waitlists, recent average waiting times, number of intermediaries available, and other data will significantly assist support services, as well as clients in their decision-making. This kind of transparency and accountability is increasingly common in other government services, for example the publication of hospital emergency department waiting times.

Q 19 - Opinions on jury directions regarding research. Experience of Victorian system.

FDVLWN supports the WLSA legislative reform priority that jury directions should be legislated to address misconceptions about consent, trauma, sexual violence, and family and domestic violence – they should be given early on at trial and throughout, particularly where they are relevant to the evidence at the time.

Q 20 - Opinions on recommendations for jury directions. Ideas for reform of jury directions.

There is significant value in ensuring that judicial directions to juries regarding the contextual information, and the definitions of FDSV are consistent across all court jurisdictions. Frequently victim-survivors of sexual violence within family and domestic violence can have concurrent Family Court, protection and care, criminal injuries compensation and restraining order matters, as well as being a complainant in a criminal matter, and others, all for the exact same circumstance or event. In many situations the outcome or decisions within one matter will directly impact the outcome or pathway of another matter. It becomes vitally important then that definitions and judicial directions are consistent, so as not to inadvertently lead to inconsistent outcomes across these matters, or to enable a perpetrator to use Court processes to perpetrate further violence.

Q 21 - Opinions on trial by judge for sexual offending.

Case study 19 (victim-survivor response) - I don't believe one single person who makes their decision based on the law charged with making a decision on something that is so nuanced and is such a personalised experienced. I think sexual offending cases should be judged by a jury, so there are many people going over the facts, no bias, they have not seen other court cases, they don't have an agenda.

When sexual violence occurs in patterned abuse such as family and domestic violence, there needs to be greater understanding of how it impacts on the person. More training for judges is required to ensure there is no minimisation of violence.

Case study 20 (legal service response) – In an application for an FVRO, evidence was provided that the respondent had kissed and touched the victim-survivor when she did not consent, the respondent further made threats to have sex with the victim. The Magistrate claiming he had an understanding of family violence stated that the sexual violence was “a relationship breakdown”.

Conversely, there is potentially a lower risk of appeal in a judge-alone trial.

Q 23 - Adequacy of legislative provision to protect complainants during cross-examination.

FDVLWN supports the WLSA Legislative reform priority relating to improving protections for victim-survivors from being re-traumatised through cross-examination, including through restrictions on improper, inappropriate, or aggressive questioning, questioning about sexual history, experience or reputation, and the length and scope of questioning – including through the use of intermediaries, ground rule hearings, and pre-recorded evidence.

Q 26 - Impact of changes to availability / format of interpreters.

Interpreters are invaluable, however ensuring they are trained to handle the vicarious trauma, translate appropriately for the jargon and situation of the court and sexual violence scenario is imperative. Having female interpreters for female victims especially where CaLD communities have opposing cultural and legal views on sexual and gendered-violence is also imperative.

In certain regions of Perth, there are large CaLD communities. It is not uncommon for women in or leaving relationships in circumstances of family/sexual violence to speak little or no English and they do not have the financial means to pay for interpreters themselves. It is often the case that they have been prevented from learning English due to ongoing coercive control. The availability of in-person female, accredited interpreters can be the difference between a client engaging with support services, police, lawyers, and counsellors, or remaining in their violent relationship, because they feel it is too hard to leave.

It is not uncommon for pre-booked in-person interpreters to cancel at late notice, or for interpreters to not even be available for certain languages.

While the use of telephone interpreters is adequate, it does not foster an environment where the victim-survivor feels safe and secure, that the conversation is confidential, and it is difficult to build rapport and obtain clear instructions and information.

It is often beneficial for victim-survivors who can speak English, but it is not their primary language spoken, to utilise an interpreter when giving evidence at trial. Victim-survivors have explained that by using an interpreter, especially when the alleged perpetrator does not speak that language, offers them a level of perceived protection/a barrier, because they can focus on only communicating with the interpreter, rather than with the alleged perpetrator's legal representative.

Q 28 - Adequacy of legislation to protect complainants' records of counselling and therapy.

FDVLWN supports WLSA's legislative reform priority to improve protections for sexual assault communications privilege – including access to confidential counselling notes and medical records – ensuring that protections are applied consistently, oversight and accountability, victim-survivors are supported to access these protections, and prosecutions, police and the courts understand and apply them appropriately.

[Section 19C\(1\)](#) of the *Evidence Act 1906 (WA)* states that a person cannot disclose or require disclosure of a protected communication in, or in connection with, any criminal proceedings except with, and in accordance with, the leave of the court. However, it is important that the police have consistent policies (and implement these policies consistently) when it comes to obtaining counselling notes. We have received reports of WAPOL asking counsellors to provide them with a victim-survivor legal client's full counselling file (without a subpoena but with the client's consent).

Despite that file may only have a minimal content (e.g. several sentences) relating to the sexual assault, the protections afforded by the section may lose effect. That is, that entire file may become part of disclosure, and if it is then must be given to defendant s 61 CPA.

Q 31 - Need for further reform for tendency, coincidence or discreditable conduct evidence.

FDVLWN supports WLSA legislative reform priority of increasing the admissibility of coincidence and tendency evidence.

Q 33 - Need for specialist courts/ sections/ lists? Need for specialist training for judges.

Potential impact of requirements for specialist accreditation.

Case study 21 (legal service response) – In an application for an FVRO, evidence was provided that the respondent had kissed and touched the victim-survivor when she did not consent, the respondent further made threats to have sex with the victim. The Magistrate claiming he had an understanding of family violence stated that the sexual violence was “a relationship breakdown”.

FDVLWN supports the WLSA System reform priorities:

- Increasing the ‘specialisation’ of the response system for sexual violence, including specialist judges, court staff, prosecutors, police, legal assistance and support services. Potentially this may include establishing specialist courts for sexual violence, although we would also want to see specialisation occur in locations where a specialist court is not established.
- National review of the effectiveness of judicial training and a national approach to improving judicial understanding of sexual violence and trauma.

More specifically:

- Sexual assault and gendered violence are evidently issues within Australia and any measures that will improve the outcomes for victims and for offenders should be considered.
- Judges should have training on sexual offence cases and should be able to elect to handle cases of sexual offences. Further they should be trained in the broader social issues of sexual violence and gendered violence. For those judges handling sexual offences against children should have a significantly higher level of training as well.
- Trauma informed and culturally appropriate training for legal representatives who act for alleged perpetrators or FDV and sexual violence would go a long way to improving the willingness of a complainant to engage and feel comfortable giving evidence.
- Training of this nature could be made mandatory for lawyers on the Legal Aid panel for criminal matters.

Q 34 Frequency and impact of delays for victim survivors.

Case study 22 (legal service response) – Victim-survivor had three trial listings over three years before her matter was finalised. When the trial found him guilty of the sexual offences against his stepchildren, his sentencing date was set for almost 5 months post-conviction, and he was released into the community.

Case study 23 (victim-survivor response) - When I made my initial report, I was told it would take 6 months-18 months, for my case to be picked up, but it was but it was picked up within 2 months.

Case study 24 (legal service response) – The perpetrator was convicted of the assault against the victim-survivor. His sentencing was adjourned four times before being finalised.

Delays are traumatising for the client and leaves the client in limbo and unable to move on. It also impacts the offender who cannot access necessary supports and if they are to be incarcerated their life is also on hold until they find out what the outcome is to be. Sentencing should not be delayed and should be a priority matter.

Delays in the criminal justice system can impact a range of findings for legal and administrative matters that relate to shared care. Some examples include:

1. Negative impact on Family Tax Benefit and Parenting Payment entitlements. It is common that victim-survivors are exposed to isolation and financial abuse. Being paid their entitlements promptly and accurately allows victim-survivors to care for their children and work towards becoming independent. This reduces the likelihood of a situation where they are forced to remain in a situation of family, domestic or sexual violence. Under the Social Security Act 1991, victims of FDV can now be recognised as being exempt from 'member of a couple' findings in certain circumstances. If charges are laid without delay, this can mean that victims have a stronger case to demonstrate that they have not been a member of couple during periods of abuse. This would allow Centrelink debts due to partner income to potentially be set aside or waived and enable survivors to access the appropriate rate of payment for their circumstances.
2. Impact on other legal matters resulting from sexual violence. Sexual violence that occurs in a spousal relationship is an area where other legal issues can be co-occurring. Victim-survivors may need specialist and coordinated response at the intersection of these, particularly with Family Law, Protection and Care, FVRO/VRO and but also NDIS, social security, migration, housing, compensation and criminal matters. Where matters are handled separately, victim-survivors are required to engage with multiple, siloed services and practitioners despite significant evidentiary overlap, and where the timings and outcomes of one set of proceedings directly impacts others. Women typically do not have the time, nor the emotional, economic and mental resources to engage with multiple services for what is essentially the same or heavily overlapping issue (commonly FDSV). Delays make this situation significantly more problematic.

Q 35 - Causes of delay in WA. Ideas for reducing delay.

Reports of FDSV are not always made immediately after the incident. This can be due to a range of circumstances, including ill health and severe physical injuries, or situations where the victim-survivor or their children are experiencing high levels of trauma; are fearful; have been threatened with death or severe harm; or do not have the means to leave the house and report violence. Mitigating factors such as these prevent or delay victim-survivors from disclosing acts of violence. However, this does not diminish the severity and gravity of such acts of violence.

Q 36 - Experiences of victim survivors with offender pleading guilty.

Case study 25 (legal service response) – The victim-survivor had prepared herself to go to trial and felt confident to do so. After waiting many months, and participating in continued engagement with legal and justice processes, she believed she would be empowered by the process of giving evidence. The offender then pleaded guilty immediately prior to the start of the trial. Although the victim-

survivor was relieved at the conviction, she was disappointed she was not able to tell her story, and felt like a lot of her time had been wasted.

It is suggested that sentencing discounts for early pleas should not apply in this instance, or at a minimum there be less of a discount where a guilty plea is so close to the start of a trial.

Q 40 - Victim survivor experience of sentencing.

Case study 26 (legal service response) – The offender was convicted and sentenced to 12 months in prison. He served just over 50 days before being released due to retrial. Upon retrial, again the offender was convicted but only sentenced to 10 months in prison. He only served 5 cumulative months and was released back into the small community where the victim-survivor lives and works. She was forced to leave town. The victim-survivor was deeply disappointed with the sentencing process and felt that the system was rewarding the offender for having used the time between sentences to ‘better himself’.

During the retrials the victim-survivor was subject to abuse in the community, mockery and myth/misconceptions being fed. Her requests during his parole were not listened to either. A nuanced approach is required for regional towns. There are limited locations a person can frequent. Sexual assault victims experience all control and power being taken from them and the abuser has ultimate power. This is not returned to the victim-survivor when they’ve stopped assaulting the victim. The victim-survivor remains powerless and the abuser is supported by the broken systems when he has finished his ‘served his time’. The victim-survivor will never have served the sentence of trauma, they just learn to live with it.

He then returns to the community where he controls the space with his power over her and her fear of him. He then dominates the spaces and her town is no longer safe. The parole request when reasonable should allow time for victims to prepare, allocate themselves reasonable safe spaces (on the existence of FVRO’s) and if so, time to leave town in an organised manner.

Victims should be made aware that the victim impact statement can be used as part of their CIC application instead of writing a statement of effect.

Q 42 - Ideas for improving sentencing process.

The allowance of character references for the perpetrators is disturbing for the victim. If they are to be continued, references for the victim-survivor should be also provided (in addition to the victim impact statement) to show the impact the assault/s had on the victim-survivor and their family.

Q 43 - Victim survivor experiences of appeals processes.

Case study 27 (legal service response) – The victim-survivor faced retrial on belief there was evidence she had admitted after the trial that she had lied so she didn’t have to tell her boyfriend she had cheated on him. This is an ongoing reinforcement by the system that victims are not to be believed and allegations of assault are typically false. The victim-survivor wanted to withdraw from the retrial due to not wanting to go through the process again. Her parents convinced her to continue with the trial.

Q 47 - Ideas for implementing restorative justice.

FDVLWN supports the WLSA System reform priority - Increased access to restorative justice approaches and alternative reporting options where appropriate.

Case study 28 (victim-survivor response) - There could be an option for victims explain in a video the impact of the assault, ongoing challenges and everyday challenges, and abuser needs to watch it. He didn't experience it the way I did, he will never understand the impact the way I do. They need to understand what they've done to others, so they can process what they've done. My abuser doesn't think he's done anything wrong. The process needs to be focussed on empowerment for the victim.

Q 48 - Opinions on various ideas to improve civil responses to sexual violence.

In WA, although many acts are specified in FVRO provisions, they are not included in VRO, making them open to interpretation. For example, we would suggest that sexual assault should also be included as specific grounds for a VRO.

Q 50 - Barriers to seeking legal action in workplace sexual violence.

Case study 29 (legal service response) – Client Z is a victim-survivor of FDV (including violent sexual assaults) worked at the same depot but different area to her ex-partner. A FVRO was put in place to protect the victim-survivor from the offender. He then went on to threaten to kill another member of the team. The team member attained an VRO as well. Client W met the offender at work and the sexual assault took place outside of work. The victim-survivor was felt the effects of the assault within the workplace and as the matter proceed through trial she was the one impacted getting reduced shifts and hours.

Case study 30 (legal service response) – Client aged under 18 sought legal advice because she was forced to leave her job due to her manager sending unsolicited pictures of his genitals. Despite barriers due to her young age and perceived lack of power she was able to report the incident to a more senior manager. However, no disciplinary action was taken against him and he continued to work with her. When he continued to send photos after she left the company, she sought a VRO. However as the conditions for a VRO do not specifically include sexual assault via intimate images from a perpetrator, there was confusion over whether she had grounds for either VRO or an FVRO. The confusion was further compounded as she was not an adult, and was not eligible for a service from the original CLC she approached. Ultimately alternative legal advice was sought, and the Magistrate made the determination on which type of order was most suitable.

Workplaces should have more capacity to intervene when employees are evidently threats to other staff members. It is recognised victims are fearful of reporting to management due to the power imbalances and fear of their jobs. Stronger penalties need to be enforced in workplaces to hold the offender accountable and to ensure the workplaces are not reinforcing stigmas around gendered-violence.

FDVLWN member organisation, Circle Green Community Legal will make a separate submission outlining their specific experience, observations and recommendations reflecting their work with marginalised and disadvantaged clients who have experienced workplace sexual harassment. FDVLWN supports their strong recommendation that all legal processes be made as safe and trauma sensitive as possible for all participants

Q 51 - Support needs for legal action in workplace sexual violence.

In general, it is important for management to be trauma trained and have on staff specialists that can manage sexual violence related cases in the workplace.

Q 52 - Barriers to accessing compensation. Experiences of applying for compensation.

Case study 31 (legal service response) – Yes, she finally felt heard and understood. It wasn't just about seeking compensation because of the assault but to let someone know it was all replicated and reinforced by the broken health and justice system. During the process, there was push back from police to provide the statement saying it could not be found. It had to be requested again from the police information again before receiving it. Victims support teams should be more readily supported.

Victim-survivors are less likely to consider applying for compensation because they do not want to re-traumatise themselves by having to think about the assault again. They don't want to have to write a statement of effect or see a psychologist to revisit what happened to them. It would be beneficial if Criminal Injuries Compensation clients who were claiming for psychological harm did not need to provide psychologist reports to confirm they have suffered mental harm.

There are significant barriers to accessing compensation for sexual assault in time to meet the required deadline, for example:

- victim-survivors do not apply immediately due to lack of awareness about the availability of CIC;
- victim-survivors can miss the deadline for CIC applications, especially those experiencing FDV may initially be too traumatised to apply, or are more busy dealing with other more immediate issues, including homelessness, children, finances and mental health;
- victim-survivors of FDV may be unable to report sexual assault earlier due to controls by partner not allowing them to leave the house, (e.g. victim-survivor may be locked up in their house);
- alternatively they may be unable to report sexual assault earlier due to living separated under the same roof;
- victim-survivor of FDV may be unable to access supports due to lack of finances or phone;
- victim-survivor of FDV may need to protect children and self and aspects of seeking CIC may make them unsafe, victim-survivor may be too scared to reach out to any services at all;
- in some remote regions there are quite literally no services at all, and where there are some, they may not have been in place in earlier years when the assault occurred;
- Victim-survivor was in prison or refuge for a significant time and missed the deadline;
- Victim-survivor may currently be homeless – for lawyers, maintaining contact with a homeless person over the protracted CIC matter is very difficult;
- CELD women who are victim-survivors of sexual assault in their marriage may have particular difficulties leaving their partner due to a sense of shame and a need to uphold community values; and
- Victim-survivor may not be psychologically ready to seek CIC.

It is important to emphasise that the psychological reports needed to confirm PTSD are particularly difficult to access for a CIC matter. Initially, getting access to police and medical records and other documents through the FOI process can take a long time, be challenging without access to a

computer, and may cost more than the person can afford. In addition, the effects of the PTSD can be enough to prevent a person from accessing the documents or obtaining the psychological report. Lastly, the psychological reports are very expensive. Where preliminary money is released by the OCIC, this is capped and may not be sufficient, depending on the health practitioner. Further, some health services require the payment up front and will not invoice the OCIC for the report.

We are aware that there some CIC matters where the geographical location of the offense is not clear and may or may not have taken place in another jurisdiction. Similarly, where the geographical location of the offence is outside WA, and although criminal charges may apply in the other jurisdiction, it may not be feasible for charges to be laid.

Case study 32 (victim-survivor response) - Yes, I spoke to lawyer about applying for compensation once the trial is over.

Q 53 - Ideas for changes to compensation scheme.

FDVLWN supports WLSA Legislative reform priority of increased access to victims' compensation, including changes to eligibility criteria to remove the requirement to prove injury for sexual violence and domestic and family violence offences (similar to VLRC recommendation).

Changes which would facilitate access to CIC include the following:

- Improve access to support services for victim-survivors accessing legal services for CIC. People linked in with support services tend to be more organised, have documents already available, have a support worker to clarify issues and make submissions.
- Clarity around the preclusions preventing an award.
- Remove requirement for victim-survivor to have to establish mental harm by providing a psychologist report.
- Allow victim-survivor to submit application for CIC after the 3-year limitation date without having to request an extension.
- Do not preclude victim-survivors from making an application if there is a not guilty verdict. Given sexual violence cases are often "he said she said" cases, getting the high threshold of beyond a reasonable doubt can be difficult. If there is not a guilty verdict, they should still be able to make a CIC application.

Case study 33 (victim-survivor response) - I think it's pretty fair as the evidence needs to be believed beyond reasonable doubt. While my abuser is only charged one offence, the broader effects of the FDV can be taken into account without me having to go through another trial.

Q 54 - Opinions on victim charters.

Case study 34 (victim-survivor response) - Did not know what a charter was.

Currently, rights of victims are contained in the following guides:

- DPP Policy and Guidelines for Victims of Crime (2022). DPP are not considered to be highly trauma informed; and
- Victims of Crime Act 1994 – however there are no repercussions where this is not followed.

Q 56 - Ideas for ensuring victim survivors rights in criminal justice system.

Case study 35 (victim-survivor response) - Making sure everyone knows about victim's rights- the survivors, services, Police. The information needs to be well circulated.

In general, FDVLWN is of the view that victims' rights within the justice system should be more enforceable.

Supporting victim-survivors of sexual violence in other matters

Client-centred approach

FDVLWN supports a client-centred approach where a range of services can be available to the client to meet their needs. In a client-centred approach, clients should be enabled to make a service choice based on a combination of:

- the immediacy and severity of their legal need;
- the areas of law that encompass their particular range of legal needs;
- the accommodations needed to ensure their equitable access to legal services and the justice system more broadly;
- access to associated and integrated supports; and
- an appropriate and accessible location.

Many people with legal issues seek service providers that are specialised for their unique needs as a priority client group. This is for a number of reasons:

- the suite of supports unique to their needs;
- the legal experience and expertise of specialist services have in providing legal services to that priority group; and
- the broader accommodations that are particularly relevant to the priority group.

For example, women may have specific needs that would be particularly met by a specialist women's service. This priority client group benefits from the legal expertise and experience in the specific in areas of law that are most relevant to them. In addition, due to history of trauma or abuse, they might prefer and trust services only delivered by women as the presence of men can potentially re-traumatise them, or they may not fully engage with the service. Other accommodations can be made to ensure their experience is less traumatising, or generally more accessible to them, such as appropriate office environment, appropriate security, child play areas, convenient locations or associated services. Integrated supports unique to the priority client group might include social workers or strong, established connections with relevant services, such as women's refuges. In many instances, the choice of service by the client may focus around the gender specific and integrated services and women-focused environment, rather than the area of law.

SALSWA

Four CLCs in WA have recently commenced a pilot Sexual Assault Legal Service for Western Australia (SALSWA). SALSWA provides legal assistance tailored to the needs/preferences of individual victims

and survivors. They aim to offer an end-to-end service, providing victims and survivors with the information they need to make informed decisions and to understand how the criminal, civil and/or administrative justice process works and what their options are. They advocate for victims and survivors and can help facilitate communication between them and relevant stakeholders (including the police and the ODPP).

The criminal justice process is often long and many victims and survivors of sexual violence do not have the information they need to make decisions in their best interests. Many victims and survivors do not know what to expect from the criminal justice process and are often left feeling overwhelmed, lost and sidelined as passive participants.

Victims and survivors of sexual violence need independent legal representation. They need someone to act as an anchor throughout their individual journey to help consolidate information they are receiving from different people and to explain what is happening, why it may be happening and what they can expect.

By providing victims and survivors with the information they need and being a champion for their voice, SALSWA will increase the autonomy and agency of victims and survivors and empower them to make informed decisions that will best aid their individual and unique journey towards healing.

Other justice processes not included in this review

In general, FDVLWN is concerned that important aspects of the justice process were not included in this review. Specifically the impact on the victim-survivor of the following justice processes were not included in this review:

These remain significant concerns for victim-survivors and have implications for their day to day safety, wellbeing, and logistics of managing their day-to-day family and working lives.

Scope of the WA Criminal Code

There are several WA- specific issues in relation to the breadth of charges available under the Criminal Code in response to sexual violence, specifically:

- WA does not criminalise stealthing. This a term of reference under the WA Review; and
- Sexual offences in Western Australia do not contain a 'mental state element'. The accused's mental state is relevant to the mistake of fact defence and in sentencing where that defence is used.

Justice processes not included in the review

Dangerous Sex Offenders

Some potential concerns regarding victim-survivor involvement in the process to apply for a Dangerous Sex Offender Order are as follows:

- Although victim-survivors of historic serious sexual offences are notified by the Victim Mediation Unit (VMU), victim-survivors of other serious violent offences, or less serious sexual offences are not routinely notified.

- Victim-survivors do not routinely make submission to dangerous sex offender hearings except in rare circumstances when specifically requested by a court.
- Victim-survivors are not advised of court dates.
- It is a routine condition that the offender cannot make contact with any of the specified victims. Once the order is made, known sexual offence victims are notified of the order and given the opportunity to provide input into recommendations for specific conditions attached to an offender's supervision order, usually in relation to exclusion zones.
- Monitoring offenders can often mean disruption to victim-survivors' lives.

Impact of acquittal, time served or spent conviction

In some instances, an accused will be acquitted, or they are sentenced to time served or a spent conviction. This is invariably highly devastating to the victim-survivor, whose experience in the justice system can compound trauma from the original sexual assault.

Parole

Although the FDVLWN agree that there are significant benefits to parole, the wider community can see parole as 'getting out early' and therefore less of a punishment. Victim-survivors are not always informed of eligibility for parole, release on parole, or the specific parole conditions.

Treatment during corrections - community or imprisonment orders

It is the view of the FDVLWN that ALRC has not sufficiently considered the impact on victim-survivors of treatment in prison or community corrections. On a practical level, some victim-survivors can be contacted as part of the treatment, which may be either further traumatising, or helpful to them. For others the lack of treatment can leave some victim-survivors concerned that their perpetrator will re-offend.

Impact of civil litigation regarding defamation, in combination with media publicity (on the individual victim-survivor, their family and friends, and the wider community)

The FDVLWN would like to raise a broad concern that the initial treatment by the workplace of Brittany Higgins, the subsequent treatment by the media in relation to the criminal matters relating to her case, and then civil matters following from this may have a significant impact on the likelihood of any victim-survivor reporting sexual violence in the future. This is particularly the case where the perpetrator is a public figure, or where the victim-survivor works in a publicly scrutinised field.

Family Court, Protection and Care, Tenancy, migration and other types of legal matters impacted by sexual violence

FDVLWN reiterate again their concern that victim-survivors of sexual violence often need to balance the wider impact on other related legal matters resulting from sexual violence, in particular, where the sexual violence occurs in a spousal relationship. These victim-survivors need specialist and coordinated response at the intersection of these matters, particularly with Family Law, Protection and Care, FVRO/VRO and but also NDIS, social security, migration, housing, compensation and criminal matters. Where matters are handled separately, victim-survivors are required to engage with multiple, siloed services and practitioners despite significant evidentiary overlap, and where the timings and outcomes of one set of proceedings directly impacts others. It remains highly

challenging and inherently unfair for victim-survivors of FDSV to engage with multiple services across multiple matters for what is essentially the same or heavily overlapping issue.

Concluding remarks

The FDVLWN again thank the ALRC for the opportunity to prepare this submission. We are heartened by the commitment of the Western Australian and Australian Governments towards the ongoing safety of victim-survivors of sexual violence, particularly in the context of FDV. However we contend that significantly more needs to be done, and hope that the work of the ALRC will go some way to achieving this.

Yours Sincerely,

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