human services

WRITTEN SUBMISSION to provide comment on the **ACTION PLAN CONSULTATION FRAMEWORK** for **ADDRESSING VIOLENCE AGAINST WOMEN AND THEIR CHILDREN**

Please complete your submission in a **Word.doc format** and email to the Office of Women's Policy (OWP):

submissions.owp@dhs.vic.gov.au

by **no later than Friday 23 March 2012.**

Should you have any questions relating to your submission, please contact the Office of Women's Policy - Selina Getley on 9918 7328 or Angela Bourke on 9918 7346.

Please complete:

Name of stakeholder/ organisation / individual making this submission:

Federation of Community Legal Centres Victoria
(with examples provided by St Kilda Legal Service, Eastern Community Legal Centre, Darebin Community Legal Centre, Gippsland Community Legal Service, Loddon Campaspe Community Legal Centre, and anonymous affected family members)

Name(s) and position(s) of the author(s) of this submission:

Dr Chris Atmore, Policy Officer

Contact person (name and title):

As above

Contact details (telephone and email):

Ph 03 9652 1506; Email: policy@fclc.org.au

The comments provided in this submission are from the perspective of (please bold or underline those that apply):

Academic/ research organisation

Advocacy/ representative organisation

Community/ sporting organisation

Indigenous organisation

Individual

Legal organisation

Local government

Non-government (not for profit)

Non-government (private, for profit)

Service provider/ support or resource centre

Statutory authority

Other (please specify).....

The Federation of Community Legal Centres Victoria is the peak body for 49 Victorian community legal centres (CLCs). CLCs are independent community organisations that provide free legal advice, information, assistance, representation and community legal education to more than 100,000 Victorians each year.

Many of our CLCs provide duty lawyer services in Magistrates Courts for victims of family violence. For the financial year 2010-2011, 'family or domestic violence order' was the top legal problem type for CLC work across Victoria, comprising 12.3% of all problem types. 'Family or domestic violence' contributed another 2.5% of problem types. Nearly 5000 instances of information (about 1 in every 13 overall), and over 5000 legal advices (1 in 10) concerning family violence were provided, and nearly 8000 new family violence cases were opened (meaning about 1 in every 3 new cases were about family violence).

The Federation has been collaborating with various Victorian family violence services and peak bodies for many years on family violence systems reform in Victoria. As a member of the first Statewide Steering Committee to Reduce Family Violence established in 2002, we worked in partnership with government and other non-government organisations, police and courts to develop an integrated response to family violence. This work has included developing the vision for family violence systems reform and implementation of a range of policy, practice and governance initiatives. We advocated with our community partners for a review of family violence legal

responses in Victoria. This led to the Victorian Law Reform Commission (VLRC) review of family violence laws, which we worked on as a member of the VLRC Advisory Committee.

The Federation co-leads, with Domestic Violence Victoria, the Victorian Family Violence Justice Reform Campaign, which began by advocating for the adoption of the recommendations made by the VLRC, many of which are now part of legislation and practice. More recently, our work alongside government and community organisations has involved strategic research, policy development and law reform activities. The Federation, together with our member centres Domestic Violence Resource Centre Victoria, Women's Legal Service Victoria, and Aboriginal Family Violence Prevention & Legal Service Victoria, participates in a number of statewide committees and working groups concerned with family violence, including the Family Violence Statewide Advisory Committee and the Systemic Review of Family Violence Deaths Reference Group.

Submissions

The information provided in this submission will be used to inform a feedback report to the Minister for Women's Affairs and other responsible ministers. The feedback report will consist of aggregated, de-identified information and will be used to inform the final Action Plan for addressing violence against women and their children. It is not intended that this report will be published.

Submissions will be treated in confidence and will not be published. Any request made under the *Freedom of Information Act 1982* for access to a submission will be determined in accordance with that Act.

CONSULTATION QUESTIONS

GENERAL COMMENTS

The Federation welcomes the development of the Action Plan and the opportunity to provide feedback on the Consultation Framework. We commend the Government's commitment to addressing violence against women and their children as a fundamental abuse of human rights and therefore a key priority.

We are delighted that the Government has promised to continue and expand the anti-silo, whole of government and community collaborative approach of the past few years in Victoria, including the provision of integrated support to affected women and children.

We strongly endorse the submission of our member centre Domestic Violence Resource Centre Victoria (DVRCV), that all actions against violence against women and their children must be underpinned by shared understandings that are built across all relevant government departments and funded agencies.

Due to the high level of generality of much of the Framework, we request that key stakeholders (eg members of the Family Violence Statewide Advisory Committee) be consulted for feedback once submissions on the Framework have been processed and before the Action Plan is finalised. We also urge Government to heed the concerns of our member centre Aboriginal Family Violence Prevention & Legal Service Victoria (FVPLS) that the Koori community has not yet been adequately consulted. Enhanced collaboration with Aboriginal and Torres Strait Islander women is essential to reducing and preventing the disproportionately high rates of family violence in these communities.

Please provide your feedback by responding to the consultation questions below.

1. **Does the Consultation Framework provide balance in terms of addressing all forms of violence against women and their children?**

In this submission the Federation focuses primarily on family violence, but we note that many of our comments below, such as the need for improved integration and the coordination of tailored services for women and children with disabilities or who are Aboriginal/Torres Strait Islander, from a CALD or rural/remote background, newly emerging communities or from other communities experiencing additional disadvantage, apply also to other forms of violence such as non-family sexual assault. See, for example, the Federation's joint project providing integrated assistance for sexual assault victims who have complex communication needs or a cognitive disability (described in Appendix A at the end of this submission).

At the same time, while we agree with the emphasis of the Framework's recognition of the interconnections of all the various forms of violence against women and their children, we believe it is important that the experience and skills of different organisations who have engaged with the various issues are not lost or diluted. We fully endorse the comments of DVRCV concerning the need to avoid forcing different organisations working against specific forms of violence to compete with each other for funding. We also support DVRCV's recommendation that an audit of the different work be completed. See also our response under Q6.

2. Does the Consultation Framework provide the right balance between prevention, early intervention and response?

We are concerned that this question is framed in terms of 'balance', and therefore that combined with Government messages that further funding of the integrated response is unlikely in the forthcoming Budget, stakeholders may infer that they are required to choose which area should receive priority at the expense of the others. We are already aware that some stakeholders have compared the investment figures in the Framework for prevention and early intervention with those for response, and have concluded that prevention, in particular, needs more money, with the inference that the response aspects of the system are already taken care of.

The reality is that all three areas are in development and require further planning and adequate and recurrent resourcing in order to truly meet Victoria's obligations to protect women and children. Using the analogy of transport accidents, while road safety campaigns and stringent driving tests are essential, no policymaker would contemplate making this the priority *at the expense of* crash barriers, improved roads, prosecution of traffic violations, ambulance transport or rehabilitation facilities.

It is essential that well planned and joined up primary prevention programs are developed across such sectors as education, media, local government and sporting codes, so that all Victorians learn that violence is unacceptable and how to take action against it. Several of our community legal centres are undertaking community development and community legal education work that is clearly prevention in these terms. For example, in 2012 the Federation's policy group, the Violence Against Women and Children Working Group, will join with our community legal education and community development workers in activities for White Ribbon Day.

However, the three areas as delineated in the Framework do not reflect the reality that the three areas are actually interrelated in various ways. For instance, as the submission from FVPLS comments, and which we endorse, funding is needed in order for the service to provide community legal education about family violence to victims of family violence within Aboriginal and Torres Strait

Islander communities, not only in rural and remote but also urban areas. Such education is important because victims tend to approach FVPLS long after the family violence has occurred, whereas community legal education outreach can provide early intervention.

There are also important prevention elements to 'early intervention' and 'response'. For example, if a woman who is experiencing violence is able to seek help from family violence and legal services to obtain an intervention order, this is not simply part of an integrated response, but also has important aspects of early intervention and preventing violence – not only via assisting her to keep safe, but also via providing the message to her and the perpetrator that she has such a right.

The intervention order system, together with legal advice and assistance outside the court, is about early intervention, response *and* prevention. Illustrations from our applicant lawyers provided in our response to Q4 detail these linkages in relation to family violence lawyers' role at court, as do the diagram and case study provided by Eastern Community Legal Centre, attached separately (Attachments A & B). It would be correct in many instances to characterise duty lawyer services as a tertiary response. However, the service provided by CLCs to parties in family violence applications extends far beyond the provision of legal advice, and for this reason, it has the capacity to deliver preventative outcomes.

Example

A woman, the AFM in a police-initiated family violence intervention order application, sought the assistance of a CLC through the Applicant's Family Violence Duty Service at Court. Police had applied for an intervention on her behalf against her teenage child, E. E was developmentally delayed and had a series of behavioural problems which led him to act violently at times. The AFM's response to violence outbursts had been to call the police. Sometimes, neighbours or the AFM's younger child phoned the police. Due to the number of call-outs and because of concerns for the safety of the younger child, police sought an intervention order. However, the AFM wanted E to remain at home. The AFM explained to the CLC that she received no support from local agencies as E 'fell through the gap' in terms of programs delivered by services due to his age (17) and his particular disability.

The CLC facilitated a range of negotiations with local support agencies, resulting in E providing a limited undertaking and a number of supports being put in place. The police agreed to withdraw the intervention order application as they were satisfied that E would be supported and the AFM would have more appropriate supports to assist his with volatile behaviour.

The involvement of the CLC meant that family relationships were preserved, measures to prevent violent outbursts were taken, and ultimately, the AFM and her younger child felt safer, better equipped and supported to respond to the signs of escalating behaviour.

Our member centre Loddon Campaspe Community Legal Centre (LCCLC) describes how the Family Violence Court outreach programs in the Loddon Campaspe region are an essential component of any family violence prevention strategy. Since the commencement of the program in December 2006 there has been a noticeable increase in the region in understanding and awareness of family violence, which has been enhanced since the introduction of the *Family Violence Protection Act 2008*. When the Act was first implemented, private practitioners, police prosecutors and in some instances the Court sought the advice and opinions of LCCLC about the application of the legislation. LCCLC's educative role in the region continues to play an important part in maximising safety for victims of family violence and accountability for respondents using violence against women and children.

The Court outreach programs provide an opportunity to properly advise and educate victims of family violence about what family violence is, to de-bunk common misconceptions about what is and isn't violence, such as 'he only pushes me around – he never actually hits me', 'the police can't charge him with threatening to kill me because it's only a threat '. By informing clients of what the law recognises as family violence, CLCs contribute to the curtailing of further or escalating family violence; if victims recognise the signs of violence at an earlier point and act proactively, there may be a decrease in the incidence of the higher levels of violence - including death and serious assaults.

When victims present at Court it may be the first time they have had any access to information around family violence and the legal options available to them. Legal advice may extend to family law property issues, Victims of Crime applications, proper reporting of breaches/ criminal offences and advocating for the client in instances that the Police are not adhering to the Police Family Violence Code of Practice or properly investigating criminal offences committed by the respondent/ perpetrators. The Court outreach services are also an important opportunity to link clients in with appropriate non-legal family violence support services. In each outreach court location, LCCLC has a strong working relationship with the local family violence support agencies.

The Court outreach program is also an essential part of safety planning for victims of family violence: tailoring intervention orders to allow for the family members to stay in the home and the respondent to be excluded; arranging safe means of communication between the parties whilst the intervention order is in place; making appropriate referrals and conditions of intervention orders directing the respondent to attend Men's Behaviour Change programs and so on.

Access to legal assistance and court support can be particularly difficult for women living in rural/ remote locations, particularly in farming communities where there nearest court can be over an hour away. LCCLC receives family violence telephone advice calls from women who are geographically isolated, where the violent respondent may be literally 'out the back paddock' when they call and where there is often more empathy from the local police station towards the perpetrator rather than focusing on the safety needs of the women and children. The safety concerns also extend to high risk of homelessness where the woman has married into a 'family farm' – when they attempt leave they are ostracised and are threatened that they have no claims on any of the property or assets of the relationship. If there is a successful interim intervention order that excludes the respondent from the home, there are often grave concerns around the ability of local police to respond if there are any further family violence incidents. Firearms are also of a major concern in rural remote areas.

The role of preventive strategies within these communities is therefore of utmost importance – reinforcing the intolerance of family violence, that men should be taking a lead role in the no to violence message within their own families, clubs and workplaces. LCCLC has played an integral role in many of these preventative strategies across the region – and is therefore engaged in much more than just the 'legal response'.

Similarly, responses to violence in the form of mandated men's behaviour change programs and criminal sanctions also have elements of early intervention and prevention. For instance, women's experience and social science research consistently show that family violence is not usually a one-off incident, and that without civil and criminal court intervention, many victims and perpetrators could have a history of violence lasting many years, into the next generation and beyond.

As a further example, the Federation, together with several of our member centres and many non-government members of the Family Violence Statewide Advisory Committee, is a member of the Victorian Systemic Review of Family Violence Deaths (VSRFVD) Reference Group. The VSRFVD plays

an important role in developing understandings of why family violence deaths occur, how they can be prevented in the future, and more broadly, how women and children may be protected from violence. The Federation has attended a number of family violence inquests as part of our role in providing feedback on key broad issues to the Coroners Prevention Unit (CPU). We have been particularly struck by how useful family violence death investigation and review is for our ongoing work in implementing and adhering to the Common Risk Assessment Framework (CRAF) applying across all services assisting women and children experiencing or at risk of family violence. In turn, we have been able to feed our knowledge of risk factors and best practice risk management into the work of the VSRFVD. This nexus is vital, not only for death prevention but also for the prevention of family violence in general.

Clearly, primary prevention initiatives need to be developed and funded, and this has only taken place in pockets of Victoria and in pilot programs to date. However, we believe that there is a risk that given the comparatively better developed justice system responses and the current allocation of funding, that 'prevention' as defined in the Framework will be allocated primacy over early intervention and response, with the justice system, and legal assistance for women and children in particular, falling at best only into these last two areas. The Framework actually devotes very little to detailing how the justice system is to proceed, including where elements of the justice system need to engage with, for example, non-legal community services (see eg R29, R30 – lawyers must be a part of coordinated case management in order to provide safety for women and to resolve associated issues such as tenancy and debt matters).

While there have been great advances in law reform and the courts' response to family violence in the last few years, as we outline in our response to Q4, the justice system is at a crucial stage in terms of moving towards joined up services. It therefore requires *more* funding to improve outcomes for women and children and deal with a current crisis of capacity - and therefore must be a *core and equal* part of the Action Plan.

3. Will the Action Areas improve primary prevention, early intervention and responsiveness?

There is not enough detail in the Framework to answer this question comprehensively. See our General Comments and our response under Q2.

Every Action Area must be based on an understanding that a whole of government, anti-silo, coordinated response underpins every successful strategy. For example, in order for the integrated system to handle family violence and sexual assault cases consistently and responsively (R18), there must be consistent standards, understandings, language, practices, guidelines, and protocols right across community services, including community legal services, and the police and courts. The Federation also fully supports our campaign partner Domestic Violence Victoria's submission that it is essential to fully link early intervention strategies in the Action Plan to the Victorian Homelessness Action Plan, and FVPLS's submission that holistic service delivery, including access to housing, is needed in order to provide effective support for Aboriginal and Torres Strait Islander women and children experiencing family violence.

Coordination means, for instance, ensuring that governance structures and processes link all stakeholders with one another, including our lawyers (see Q6). Another core underpinning must be the rollout of the Common Risk Assessment Framework (CRAF), so that not only does everyone in the integrated response undertake risk assessment and risk management training, but also staff in broader human services organisations such as drug and alcohol and mental health services (see E12, R22).

4. Should particular Action Areas be prioritised?

See our response to Q2 – it is not so much a question of prioritisation, but of ensuring that particular continuing silo problems are addressed. As an example, we support the recommendation from our member centre Women's Legal Services Victoria (WLSV) on the need to create an integrated and holistic response to victims who have experienced sexual assault in a family violence context. It is equally important that the momentum for change is not lost. We support DVRCV's submission that actions that have been evaluated and proven to be effective should be funded and supported as a matter of urgency, with a view to systematising that learning statewide.

The Framework incorporates scant detail on the justice system, and particularly the courts and legal services. The remainder of our response to this question therefore makes the case for the centrality of the justice system and particularly of our duty lawyers and other legal advice and casework in keeping women and children safe (this relates most closely to E12, R18). Legal assistance for women and their children deserves just as much attention in policy planning and funding as the area of work that the Framework understands as prevention. We believe that it is important to provide a detailed account in order to support our argument, because the work of community legal centre (CLC) lawyers in assisting victims of family violence is often not well understood, or is underestimated, including by policymakers.

CLCs do so much work in this area and yet we are constantly overlooked, ignored, or worse unknown. Police for instance – we have been giving them the CLC quick guide/sheets of contacts, and giving them info about what we all do and they have been really enthusiastic and grateful - they don't get informed about us much and knew nothing about specialist centres or where centres are etc. (CLC Applicant Lawyer 1)

The complexities of relationships and long-term priorities of the integrated response have been worked on for many years by both government departments and non-profit organisations such as ours. The Federation believes that there is currently a grave risk that these gains, together with

much institutional memory and knowledge, particularly of the justice system elements of the response, could be lost. For example, we note that along with restructuring resulting in the relocation of the Office of Women's Policy and ongoing changes in Courts and Tribunals including 4 changes in the position of Manager of Family Violence Initiatives, Programs & Strategy Branch since 2007, there have been recent changes in the Supervising Magistrate Family Violence/Family Law role, the Family Violence Projects Monitoring Committee (responsible for oversight of the Family Violence Court Division and the Family Violence Specialist Services) has not met for some months, and the position of Manager of Family Violence Initiatives, Magistrates Court has not been permanently filled since August 2011.

We therefore first briefly outline how the present integrated response developed, and the role of community legal centres in this process. This is also important to document because we are concerned that the Framework as it stands risks exacerbating the impact of some aspects of existing governance structures that have sometimes led to the marginalising of the role of the justice system, and particularly of the role of our family violence applicant lawyers in the integrated response.

Background

Before 2005, community legal centres had been conducting family violence duty lawyer services at Magistrates Courts for many years without dedicated funding or support, in order to obtain protection for victims of family violence. CLCs are the leading source of free legal assistance for victims/survivors of family violence, despite operating on extremely limited budgets. In 2005, $35.1 million was allocated for a new family violence system, which included the establishment of the Family Violence Court Division of the Magistrates Court at Heidelberg and Ballarat, and the Specialist Family Violence Service at Melbourne, Frankston and Sunshine (with a circuit to Werribee). Darebin and Central Highlands CLCs were funded to establish full-time family violence applicant duty lawyer positions servicing the Family Violence Court Division.[1]

Policy- and decision- making concerning the court elements of the integrated response has recognised that there is great value in having parallel duty lawyer services for the applicant/affected family member and for the respondent. Where both parties are represented there is also a high rate of matters being resolved by consent at the first mention date, which is not only a safer outcome for the applicant, but also reduces pressure on the courts and is more cost efficient for the system as a whole (for a costing of the value of legal assistance for applicants in the integrated response, see Appendix B).

While many CLCs will assist respondents as well as applicants, generally, unless there is a conflict of interest, CLCs will overall mainly assist applicants, with Victoria Legal Aid (VLA) mainly assisting respondents.

Example
A CLC assisted the applicant. Victoria Legal Aid assisted the respondent. The applicant alleged she had been the victim of controlling behaviour over many years, including being forced to have sex during her marriage. Consent orders without admissions were negotiated, including for the respondent to leave the home.

[1] For more background on the whole-of-government family violence response, see Magistrates Court of Victoria, Family Violence Court Division and Specialist Family Violence Service, *Induction Manual*; Leah Hickey and Erika Owens, 'The Victorian Family Violence Court Division: Successes and Challenges of an Integrated Response to Family Violence', *Just Partners Conference: Family Violence, Specialist Courts and the Idea of Integration*, 22-23 May 2008.

In July 2007, the Victorian Government and Victoria Legal Aid provided funding to 10 CLCs across Victoria to establish 6 full-time and 4 half-time specialist family violence lawyer positions. Landmark family violence prevention legislation, the *Family Violence Protection Act 2008* (Vic), was introduced following the Victorian Law Reform Commission's report and years of advocacy by CLCs, family violence services and others, with $24.1 million allocated to the family violence system and to work associated with the law reform.

While the new Act introduced many valuable protections for victims of family violence, it also increased the need for applicants to have access to legal advice so that they could be aware of, and be able to make use of, the expanded legal protections offered by the legislation. For example, without legal advice an applicant may be unaware of the provisions in relation to residential tenancies, meaning for instance, that if they are renting, they may apply to have the lease changed. The applicant may also be unaware that in appropriate matters they can apply for an interim victims of crime order for funds to change locks.

Example
The applicant alleged that the respondent had sent threatening and abusive text messages to her and had previously damaged her rental home. The applicant said she was in fear because the respondent had a key to her home.

Victims of family violence may also be unaware of the expanded definition of family violence in the current Victorian legislation. For example, they may not know that family violence also includes where children hear or witness the behaviour. It is vital that victims also have access to legal advice about the family law implications of their situation.

Given the often complex family law issues that can arise out of intervention order proceedings, it is essential for victims to have access to legal advice and representation at their first mention date through duty lawyer services. The family law assistance may be offered by the CLC providing the duty lawyer service or via other local community legal centres.

Example
The applicant and respondent had recently separated and had in place an informal arrangement concerning shared care of the children. The applicant alleged that at changeovers the respondent had made threats and physical contact and that the children witnessed these incidents. Despite this, the applicant had not sought to include her children on the intervention order.

Example
The applicant stated that she was fearful that the respondent (her ex-partner) might 'abduct' their child. There was no parenting plan in place and the applicant had not sought family law advice.

Example
The applicant was caring for the child of her ex-partner. The ex-partner had a Family Court order but in relation to the child's mother, not the applicant. The applicant had not previously accessed any family law advice.

The 2011 State Budget allocated $9 million over four years to continue critical community legal services focussed on assisting victims of family violence, the homeless and disadvantaged people in rural and regional Victoria.

Currently, 17 community legal centres provide duty lawyer assistance for victims/survivors of family violence at Magistrates Courts across Victoria. Casework concerning family violence has more than

doubled over the last five years. It is still the case that not all centres receive funding for their program, and others are under-funded relative to demand. The restriction of funding to the provision of direct legal assistance has also meant that it has been difficult for duty lawyers to access regular professional development, mentoring and debriefing. We also discuss under Q6 the lack of any clear and accessible conduit via which to feed legal practice experience into policy-making.

The good work begun in the court system with the development of the five specialist sites has been stalled somewhat, as courts face increasing strain due to lack of funding for infrastructure. This is resulting in over-crowding, long lists, delays, safety risks and in some cases high financial costs, for affected family members. The experience of our applicant lawyers is also that practices and procedures are not necessarily consistent across court sites.

Over-crowded and over-burdened courts

Resources are often over-stretched in the courts, meaning that for one CLC, the one-day-a-week list may have nearly 80 matters, 75% of which are family violence. For some Courts this is partly due to the practice of listing personal safety intervention order (PSIO) matters on the same day as family violence intervention order (FVIO) matters, which also means that family violence applicants (and their lawyer, who may be only funded for the one day) may have to wait several hours before their matter comes up.

We are consistently finding we are still at court until the late afternoons and know that on occasion the Magistrates have been sitting until 6pm. (CLC Applicant Lawyer 1)

Our list is usually about 30 - when we began the service 3 years ago they aimed for a list of 20, this Monday it was 54 (partly due to the holiday the weekend before). (CLC Applicant Lawyer 2)

We regularly see 16 people and have seen up to 18. Obviously seeing them is not the end of the work as we need to deal with police, other lawyers, Family Violence Applicant Worker, self- represented respondents, book interpreters, liaise with disability services. . .so it may involve many contacts with and for them on a single day at court. We now work with a volunteer student to assist with the admin because the volume is so extreme. There is also a lot of work generated by Magistrates ordering further and better particulars and expecting us to do them. . .We have very little casework office time in our structure. (CLC Applicant Lawyer 3)

We provide a duty service at Court on two different days, with lists of 40-60 each time. 65 has been the highest – if it's above 60, we know we have to have two lawyers although we aren't funded for that. Part of the issue is that FVIO and PSIO matters are all in together – our priority is the FVIOs but the court would also prefer the PSIO applicants to have representation. Police-initiated matters also get first dibs so our clients have to wait if their matter hasn't been heard by the time the Police come in. (CLC Applicant Lawyer 7)

Some Magistrates Courts may try to address at least some of these problems by listing the FVIO matters separately if there is the room to do so. However, in rural areas, there may be competition for courtroom space with criminal matters as well.

It's not unheard of to have to wait 8 hrs to be seen. (CLC Applicant Lawyer 3)

The violent incident was on Saturday, then court on Monday, so she's also got a doctor's

appointment to get the stitches out. . .and then she's lucky to get on before lunch even though she turned up at 9am. (CLC Applicant Lawyer 5)

It depends on what she knows already and what she needs. It's a matter of advice, options and negotiating. It might take her all day. Also we have a waiting list, so if her application isn't done when she arrives, she has to come back in two weeks. (CLC Applicant Lawyer 7)

People constantly ask, 'How much longer? How much longer?' The long list also means we can only see them for a short period of time. Basically I have 15 minutes to explain the complexities of family law to a woman with cerebral palsy who has never been to court before, or to a woman from Ghana who has never thought of the police as helpful and doesn't understand what a family violence intervention order protects her from. (CLC Applicant Lawyer 5)

There's a lot of pressure because the list is so long – but you're usually seeing women who haven't already been to our CLC. So seeing our duty lawyer might be the first time they've put the violence into words. (CLC Applicant Lawyer 7)

For one matter there were service problems [police repeatedly failed to serve the respondent effectively] and the client was required to attend court 15 times. (CLC Applicant Lawyer 3)

The family violence courts are so small – they can seat maybe 20 in the gallery. There are no spare interview rooms so we either have to negotiate in very crowded corners or wait to be called down. (CLC Applicant Lawyer 7)

We get the overflow from other courts because of their delays and huge lists. We provide a service at a fairly new court so we don't have huge lists or huge delays – but it is getting longer between a directions hearing and finding a date for a contest. (CLC Applicant Lawyer 2)

Especially on police days, it's so loud you can't hear your court matter being paged in. (CLC Applicant Lawyer 5)

I think clients sometimes are under pressure to agree to orders because the court's so busy. There's a similar issue when interpreters are involved because they only come in the mornings. (CLC Applicant Lawyer 5)

Our Court list has increased significantly. On days where bail applications or other urgent matters are also listed, family violence matters have been known not to start until 2pm – all parties having been required to attend Court by 9.30am. With the new sitting commencement times of 9.30am being enforced across the region our local Magistrates are often refusing to sit beyond 4pm, meaning matters are either adjourned to the next day –when we are not funded to be present – or being adjourned for a further week or two without proper consideration of the need for interim orders, suitability of existing orders and so on. Magistrates in our region are particularly mindful of sitting only until 4pm due to the amount of travel time required to and from the regional/ rural Courts. (CLC Applicant Lawyer 6)

Courts may lack appropriate rooms for solicitors to consult with clients. Loddon Campaspe CLC has access to rooms at the Bendigo Court, but this in the Court Registry staff area and is not the most appropriate place. Access to client rooms at other Court locations depends very much on the individual Courts. Kyneton Magistrates Court has no rooms to speak with clients and all parties are usually forced to stand outside the court building. There are also no undercover areas outside the

Court.

Safety

Crowded courtrooms and long waiting times, when combined with outdated buildings, have implications for safety of women and children, and sometimes of the lawyers.

Like all courts there is no discrete area for women to wait and avoid the respondent - we have them sit near police prosecution or in the remote witness room. We have low security, just the guards on the entrances. We haven't yet been funded for those roving upper level security guards, but we need it. I was assaulted by a respondent - he whacked me on my upper arm, and he was arrested and charged. (CLC Applicant Lawyer 2)

There's only one tiny room for clients to hide in and they're still intimidated because there's too many people for security. (CLC Applicant Lawyer 5)

Our court is new, but already too small. . .the building is stretched to capacity and safety is an issue. (CLC Applicant Lawyer 1)

I have real concerns for the occupational health and safety of our workers and the clients. (CLC Applicant Lawyer 3)

It can be quite traumatic sometimes, but at least because we have a roster we can come back and de-brief with the others – it shares the stress and works against burnout. (CLC Applicant Lawyer 7)

People are falling over each other and having to sit on the floor. They're waiting for hours on end in very close proximity to the other party – within sight of each other, so by mid-afternoon tempers are flaring. In that situation, security officers are totally ineffective. One of my clients had to look at the respondent in the courtroom due to the lack of space and barriers and he made a throat-slitting gesture to her. (CLC Applicant Lawyer 4)

I really think having to sit at court for so long exacerbates the violence. (CLC Applicant Lawyer 5)

The State Attorney General recently visited Bendigo and met with the Court, local law Association, VLA and Loddon Campaspe Community Legal Centre regarding Bendigo Court safety issues, particularly in light of recent media highlighting the inadequacy of the facilities and lack of appropriate safe rooms/areas for court consumers. The Chief Magistrate has also made some strong criticisms of the Court facilities.

Issues include:
*The Bendigo Court has no effective way of keeping applicants and respondents separate from each other. LCCLC has had clients who have refused to attend Court without assurance that there is appropriate separation between her and the respondent. In the past, respondents have been known to actively keep clients under surveillance whilst awaiting the matter to be heard. The Court relies heavily on solicitors from both sides to keep parties apart from each other – the success of this will often depend on the solicitor representing the respondent and/or the willingness of the respondent to listen.
*Little to no security at the Bendigo Court, which is wholly reliant on Police to be present. However, on Family Violence list days it is often the case that the Police will leave once their matters are dealt

with. The Court then relies on the emergency call system to Bendigo Police station if any incidents arise, and there can be up to a 10-15 minute wait for police to attend an emergency call out as the nearest Police station is 5 km up the road.
*Court security at other rural Court locations is also ad hoc, with the Court reliant on a local police officer to be present for any court security.

Unmet legal need

Some CLCs are concerned that affected family members (AFMs), where the application has been made by the police, often miss out on legal assistance.

We are concerned that with the increase in police applications, AFMs are not accessing legal advice in the same numbers that they were last year. This is a significant concern particularly given the ancillary legal issues that co-occur with FVIO matters (family law – kids and property, VOCAT, tenancy, wills). Having this advice as part of the FVIO process can of course be a preventative measure in terms of ongoing conflict. (CLC Applicant Lawyer 5)

When Police make the application, they don't refer the AFM to us as standard practice – they basically only refer her to us if she wants the application withdrawn. (CLC Applicant Lawyer 7)

There has been a 27% increase in family violence applications across our region in the past 12 months. This is having a significant impact, particularly in the smaller Courts, which currently cannot service such demand. For example, one Court, which sits one day a week, lists criminal, children's court and civil/family violence matters on the one day. Due to resource constraints, we can only attend on a fortnightly basis and it is practice that family violence matters are listed on weeks that we will be in attendance. The recent increase in family violence matters has meant that regularly the Court cannot hear all listed matters on the day and thus adjourns matters to days when we will not be present. Few intervention order matters are police-initiated, so applicants are then without legal support. (CLC Applicant Lawyer 6)

I know of one case where both parties were from CALD backgrounds and the Police did not arrange for an interpreter and instead issued Family Violence Safety Notices to both parties. Ultimately there was no order. There is also a need for more specialist legal assistance where migration issues are part of the family violence matter. (CLC Applicant Lawyer 7)

The Federation also refers the Office of Women's Policy to WLSV's submission that without adequate funding, the service cannot meet the demand to provide timely legal information and advice to women that may assist them in acting protectively at an early stage.

Costs for women

The more difficult and complex the issues, the more likely the matter will end up in a contest. Most CLCs do not represent AFMs when the application is contested, though if more specialised training was funded this could change. The applicant would normally be referred to private lawyers for legal aid funding. The difficulty is that as for family law funding more broadly, the income/asset threshold for legal aid funding is low and so many women are not eligible. It is possible for the CLC lawyer to seek an order from the court for legal aid funding once it is clear that the application will be contested. Although this means that the woman may have to repay part or all of the assistance to Victoria Legal Aid, it is more likely to keep private costs down. CLCs will also brief barristers and may

be able to access some service discount for their clients.

Affected family members may sometimes be forced into having to represent themselves when police should be making the application for the intervention order on their behalf, as these two scenarios show:

An issue that is prevalent in smaller communities in our region is where there are strong grounds for Police applying for an intervention order on behalf of a victim but the victim is referred to the Court and told to apply in person. It often follows that the respondent wishes to contest the matter at first incidence, the victim is then forced to decide whether they wish to pursue the application at their own cost or settle for something less than the protection the Police prosecutor would otherwise insist on. We have also seen many instances where the Magistrate has specifically asked why the Police did not take out the application – the inference being that the matter may not be as serious as our clients are suggesting, as the Police have taken no action. (CLC Applicant Lawyer 6)

A further issue that places undue pressure on victims of family violence is that where Police make an application for an intervention order and the respondent makes a cross application against the AFM, it is Police policy that they will not represent the AFM if the matter proceeds to contest. This means that an AFM may not seek legal representation because she believes the police will represent her, but if a cross-application is lodged, police will not pursue the application nor defend the cross application. We have been called upon at very late notice at least twice in the past 6 months to assist an AFM in a contested hearing because a respondent has lodged a cross application and Police have withdrawn their involvement. In this situation, Police informants are available to be called by the AFM as a witness, but require a summons to be issued. (CLC Applicant Lawyer 6)

If a woman seeks private assistance directly, or engages her existing solicitor (who she may already be using for family law matters), the average cost for a short contest (2hours/half a day, with a mid-level experience barrister) is $880-$1,320. A lot of contests run over a whole day, or even 2 days, meaning that it could cost the applicant at least $3500.

Example

After Mary ended her relationship with John due to his extreme obsessive jealous behaviour, John began to stalk her and spread malicious personal rumours about her in their small rural town. He told her he had visited her property several times. Property was damaged and people were lurking in the garden, although Mary could not prove it was John. He also knew all sorts of details about Mary's new partner, and the property damage coincided with the new partner staying over. Another person told Mary that John had offered them money to break Mary's windows. Mary also found out that John had been violent to a previous partner who had been too afraid to seek an intervention order.

Mary endured John's behaviour for a long period, but suffered psychological and emotional stress as well as the impact on her professional and personal reputation. She feared for her physical safety, and believed John's behaviour was getting worse. She moved house and installed security and monitoring systems, but still didn't feel safe and had trouble sleeping.

Mary therefore applied for an intervention order and initially represented herself. The Magistrate was willing to grant the intervention order with the documentation Mary provided, but John presented with his lawyer and contested the order, and so an interim order was granted. The Magistrate requested that Mary detail dates and times for the allegations listed in the documentation. Mary was approached by a private lawyer in the courtroom, and because most of

the evidence was contained in phone records that she needed subpoenaed, she accepted his assistance.

At a subsequent meeting Mary had to persuade the lawyer that an undertaking from John was not sufficient, and that the phone records needed to be subpoenaed. She felt that the lawyer did not appreciate the impact of John's actions. The lawyer subsequently delayed sending the subpoena.

The next hearing was a mention and was adjourned due to evidence not being available and John still contesting the order. At this stage Mary had paid over $2000 to the lawyer. The lawyer interviewed two witnesses and Mary was taken through the process of questioning to be expected at court the next day. She instructed that if the contents of phone messages were not available at court, she wanted the hearing adjourned.

The next day in court, the contents of the phone messages were not made available but the lawyer proceeded and again conveyed John's offer of an undertaking and that John had stated he 'had something on her'. Mary refused the undertaking and was then told by the lawyer that the matter would be adjourned for a few months and would cost her a further $1800. Mary was prepared for the matter to be adjourned, but her lawyer then informed her that John's lawyer was offering a six months Intervention Order without admission, for 10 metres rather than 200 metres. She accepted, although she realised later that a 10-metre limit is actually very short.

'I was just happy to accept the fact that I had gained the intervention order and the respondent was in the system and named for what he was. At least this would possibly make it easier if another person came through against the same respondent.'

Two days later Mary received another legal bill, for a further $2,500. At this stage she approached the Legal Services Commissioner (LSC) because she believed she had been over-charged - a total of over $5000 - especially given her view that the lawyer minimised the violence. The dispute was scheduled for mediation, but Mary did not have the $2500 that the LSC wanted up front until the dispute was resolved, and they did not take credit cards. Mary ended up settling with the lawyer to pay $300 less than the original amount, and to pay the debt in instalments. She is now staying with a friend, as she did not feel secure despite her first move.

'I am at the point where I am a little exhausted with the battle and basically just decided to pay the fees and try to put it behind me. Hopefully the knowledge that I have gained will be of assistance to another who goes through this process. I do find it very frustrating that the victim is the one who incurs costs etc and all he gains is a piece of paper, but I suppose he is at least in the system and it will be an easier process for the next person that comes up against him. It would be nice to see changes in the system where there is contesting of an intervention order from the respondent and concrete evidence is obtained, that the respondent somehow be made accountable for costs.'

Sometimes respondents drag out proceedings to ensure that the AFM is financially disadvantaged. The woman can face not only having to represent herself or pay for a lawyer, but can also risk liability for the respondent's costs. This tactic is another form of financial and emotional/ psychological abuse, but it can be difficult to convince a Court that the respondent is doing more than just exercising their legal rights. The following shows the labyrinthine nature of the process for some AFMs.

Example

A CLC assisted in representing a client who had run out of money for the intervention order proceedings and was struggling to retain legal representation for extensive family law issues. She was in the position of having to seek the interim order and then deal with the subsequent applications by the respondent unrepresented, as the respondent was refusing to release any of the substantial marital funds or assets to her prior to the resolution of the family law matters.

The respondent had challenged the making of an interim order at first instance. The matter was adjourned for Directions and contested hearing. The respondent subsequently attempted to apply to vary the existing interim order – listing the matter for a suburban court rather than the regional court of first issue. The matter was adjourned to the regional sitting. The AFM was unrepresented for the variation application hearing, while the respondent was represented by a barrister and instructing solicitor.

The documentation provided by the respondent was clearly at odds with what was being alleged by them, as their own paperwork demonstrated that it was a frivolous application. The application to vary was refused, but the Court ordered the AFM to provide further and better particulars within 28 days. The AFM was relying on medical reports in support of the intervention order application and it had already been a substantial amount of time since the FOI request was made. The matter was adjourned off to the contested hearing. The respondent sought an order for costs on the basis that the AFM had not provided further and better particulars when requested to do so in writing. This was refused.

28 days later the respondent, complete with barrister and instructing solicitor, brought the matter back to court ex parte, alleging that AFM had refused to comply with the order for further and better particulars and that the application should be struck out and costs awarded to the respondent. The AFM was not present in the Court, but by a happy coincidence our solicitor who had assisted in the matter previously was present when the matter was called on. It became apparent that the respondent was misleading the Court. Our solicitor requested leave to be heard on the basis of previous involvement, and the barrister for the respondent vehemently opposed this, but the Court granted leave. Submissions were made by our solicitor that more closely represented the previous appearance and agreement made, along with the fact that the medical reports were unlikely to be available within the 28-day period and the respondent had been alerted to this in Court. The matter was adjourned for a further week to allow the AFM an opportunity to appear and address the issues raised. Again the issue of costs was raised and costs were reserved.

A follow-up call with the AFM and the Court well after the further hearing of the matter was scheduled revealed that the AFM had been unable to appear (the matter was listed on a day we were not at court – otherwise we would have assisted again). This meant that the interim order was 'overturned' and the application struck out. At least the application for costs was refused. In total there were at least 4 appearances by the respondent's barrister and instructing solicitor before the matter had even made it to contest. All the interim and ex parte applications were frivolous and vexatious. Some 18 months after our initial assistance the family law issues are still ongoing.

Based on our experience with some Magistrates, the AFM was lucky that the Magistrates that heard the different stages of the matter were unwilling to entertain the costs applications. There is a local magistrate who is of the view that if the applicant/AFM do not appear then the respondent's cost should be paid, irrespective of whether the respondent is represented or not. We have witnessed on several occasions the unrepresented respondent at an interim hearing requesting costs because he has had to take the day off work, with the Magistrate then awarding costs without further submissions. (CLC Applicant Lawyer 6)

As the Framework acknowledges, violence against women is a fundamental human rights issue. We believe that it is inconsistent with Australia's and Victoria's human rights obligations that some women should accrue substantial debt in order to protect their lives. Legal aid should be available to all women seeking an intervention order, with appropriate family violence training mandated for private lawyers, and additional funding provided to CLCs so that more family violence applicant duty lawyers can be resourced and trained to run contests.

Workforce development issues

As the accounts above of the workload, challenges and risks show, our family violence lawyers work under considerable pressure in an over-burdened role, in a manner that is at times nothing short of heroic. Nevertheless, a survey conducted in the Victorian CLC sector in 2011 found that over 75% of our lawyers earn less than $65,000, with around 50% earning less than $57,000 and 17% earning less than $50,000.

The implications for workforce development cannot be ignored: in order to retain and recruit experienced lawyers, Government must provide training for professional development. Even more importantly, family violence applicant lawyers are predominantly women, and the recent Fair Work Australia decision on the Social and Community Services Pay Equity case is directly relevant to them. Unless the Government commits to fully funding the identified pay increases, CLCs will have to cut staff and services, thereby putting the safety of women and children at risk.

Need for specialist family violence courts statewide

A large number of family violence matters continue to be heard in non-specialist courts, often leaving victims of family violence without adequate support through the court process.

We work very closely with non-legal support services in the court and the relationship between us is wonderful, and they have the time to sit with the client and can alert me to what they need. I don't know how the lawyers manage in the non-specialist courts! (CLC Applicant Lawyer 5)

The Federation would like to see the best and most effective elements of the two specialist models in Victoria extended and adapted to, and resourced for, all venues in which family violence matters are heard (R20, R25, R26). This must be accompanied by consistent, ongoing training and professional development for all Magistrates and court staff.

One point that needs to be hammered home – if women and kids get early good legal advice and representation in family violence matters, and support and referrals/counselling and so on, and all the good stuff we do – we hope they are less likely to become a victim again . . .at the very least they learn that they don't have to put up with violence and that there are people willing to help, that they can escape. (CLC Applicant Lawyer 2)

Clients are really, really grateful to us though – 'we don't know what we would do if you guys weren't here'. . . (CLC Applicant Lawyer 5)

It is crucial to the success of the integrated system that all partners become more aware of the vital work undertaken by CLCs. Eastern Community Legal Centre will shortly launch its two-year Family Violence Integration Partnership Project. Consultations have provided overwhelmingly positive feedback, and the launch, which will be accompanied by an information session, was anticipated to

be attended by 30 people and has already received 90 RSVPs. St Kilda Legal Service's new three-year project, involving eight community organisations that are part of the Integrated Family Violence Inner Middle Partnership of the Southern Metropolitan Region, is receiving a similar enthusiastic response. Already it appears that such projects are playing a role in providing important feedback to overworked registrars about what clients need to know at Court and how appropriate resources might be developed.

5. Are there any gaps in the Consultation Framework that should be considered?

1. One urgent priority must be continuing and backdating funding for the Victorian Systemic Review of Family Violence Deaths (VSRFVD). The Coroners Court has not been provided with the funds to maintain the VSRFVD since July 2010. Since 2009, the VSRFVD has been an important aspect of Victoria's integrated service response to family violence (see our response to Q2). Most of the organisations on the VSRFVD Reference Group also work together on the Family Violence Statewide Advisory Committee and in other statewide forums, which enhances our partnerships within the community sector and with government departments. We believe that our ongoing consultations with the Coroners Prevention Unit are essential for continuing to strengthen this integrated model.

The work of the VSRFVD is highly consistent with the Action Plan Consultation Framework, and also models best practice for Australia consistent with the National Plan to Reduce Violence against Women and their Children 2010-2022, and the Australian Law Reform Commission and NSW Law Reform Commission, *Family Violence – A National Legal Response Final Report* (October 2010).

12 members of the Reference Group wrote to the Attorney-General on 22 February this year seeking an assurance that funding for the VSRFVD would be continued, but we have received no response. Consistent with E12-E17, R20 & R25, the VSRFVD should also be legislatively entrenched.

2. The Framework's stated commitment to research, evidence and evaluation (pp 6, 15) and to robust data collection and systems to enable better information sharing and the measurement of outcomes (p 15) is not translated into any of the Action Areas. It is crucial that we know 'what works' and what we can do better, so that we can refine pathways and improve service provider response (see eg the discussion in our response to Q4 of community legal services and the current difficulty of conveying what is happening 'on the ground').

Improvements in data collection, analysis and evaluation will not take place without new and

detailed strategies and funding. For example, in relation to legal assistance, funding is needed to examine how the collection of family violence data in the Community Legal Service Information System (CLSIS) can interface with projects such as the Victorian Family Violence Database. As discussed in our response to Q4, there is a pressing need to establish a reliable and useful evidence base for all levels of the justice aspects of the integrated response. This should include environmental scans of the referral pathways between legal services, family violence services and the courts; and an associated local breakdown of data such as the relationship between legal representation in an intervention order matter and final outcome.

As WLSV submits, it is also important to monitor, review and refine the operation of the *Family Violence Protection Act 2008*.

3. The Federation endorses the submission of WLSV that addressing offending behaviour is integral to early intervention yet it is one of the weakest elements of the integrated family violence response. As such, appropriate resources must be committed to strengthening this response.

4. See also our responses to Qs 4 & 6.

6. How can future governance arrangements most effectively engage partners across government and community?

1. When the Victorian integrated family violence system began, it was predicated on leadership and whole of government and cross-sectoral integrated responses involving government and the community sector. The reform was facilitated by a number of high-level governance mechanisms, bringing five Ministers and their respective Departments together to work within a single policy framework. Multi-ministerial responsibility provides a holistic approach to addressing the issue and encourages mutual accountability. Within this model Victoria has benefited from high-level leadership and the weight this carries in driving reform.

Consistent with addressing violence against women and their children being a key priority for the Government, it is essential that the Premier take a leading role in the whole of Government response. While it is appropriate that the Minister for Women's Affairs lead the Action Plan, the Premier could provide high-level support by chairing an inter-Ministerial committee that would implement the Plan.

This would also send a strong and inspirational message to the community that male leaders are prepared to put men's violence towards women and girls at the forefront of public policy. It would demonstrate that violence is not only a women's issue, but also a crisis that affects all Victorians and which requires a well-resourced and concerted effort in order to be effectively addressed.

2. It is extremely important for the justice system to be central alongside community services and housing in governance arrangements. We are concerned that with recent restructuring, the statewide family violence policy approach has become more centrally located in the Department of Human Services. A largely DHS-driven response to family violence can compromise the safety of women and children, as the following example from Loddon Campaspe Community Legal Centre

illustrates:

LCCLC commonly encounters situations where there are safety concerns for the children of a relationship where there is family violence and DHS Child Protection respond in the following way;

a) Threaten the mother that if she does not apply for, or vary an existing intervention order against the respondent, the children will be removed.

b) Refuse to be involved where there are safety concerns for child/ren when in the father's care, on the basis that the children are in the mother's care and mother is taking 'appropriate protective action'. This can place the Mother in significant harm if she is seen to be refusing access to children. Even when numerous reports made about safety concerns/ child abuse allegations about the respondent, DHS have investigated and have been satisfied that there is some truth to the matters, they may still resolve to leave it to the Mother to take 'appropriate protective action.' If the Mother refuses or is unable to do so it may as above, DHS may threaten the Mother that they will intervene.

It is also worth noting that in the recent *Protecting Victoria's Vulnerable Children Report* the Loddon Mallee Region DHS offices came under specific fire. One of the main indentified issues in the report was Child Protection staff not following up allegations of child abuse with the level of rigour required and/or closing investigations as expeditiously as possible to elevate their 'case file clearance rates' without due consideration of the serious matters raised in the allegations. The main excuse was due to lack of funding and staffing to be able to do the job appropriately. LCCLC holds concerns that due to the recognised previous failures of Child Protection to deal with child abuse matters appropriately, an increase in roles/responsibilities without an increase in funding for DHS could lead to family violence matters being inadequately dealt with by the Department.

Without express policy strategies to continue the anti-silo approach begun with the integrated response, the justice system will not carry equal weight in the Action Plan. This will have profound implications for work begun in the courts, particularly the Magistrates Courts, to begin to address how better to integrate courts' approaches to family violence with the broader statewide strategy.

As we outline in our responses to Qs 4 & 5, the work of the Magistrates Courts is at a crucial stage and can only be progressed if the justice system is a key arena in whole of government policy-making and collaboration. Thoroughly engaging legal services in all aspects of governance of the whole of Government approach is a critical aspect of integration, in order to enable feedback to service partners and decision-makers about where the gaps still exist for women and children.

It has been difficult under recent governance arrangements for community legal services to feed in their various experiences into state-level decision-making. The Federation and CLC members of the Family Violence Statewide Advisory Committee have spent considerable effort trying to alert government department members of the Committee to the fact that although our legal services are central to the integrated response to family violence, governance structures such as the Regional Integration Committees (RICs) are not necessarily suited to the way we organise ourselves and who we work most closely with. This is because most of our family violence applicant lawyers programs are largely Victoria Legal Aid-funded, and the government department we liaise most closely with is the Department of Justice. Because the RICs approach is Department of Human Services–based, our legal services usually do not have comparable status to those RICs members funded by DHS. It is also difficult for many CLCs, who not only undertake a duty lawyer program but have DOJ-related commitments, to also regularly attend DHS-based forums.

CLCs' other conduits to convey their duty lawyer and other family violence legal assistance experience and knowledge have been largely the Federation's Family Violence Applicant Lawyer Network (which meets 4 times a year), with the Federation then raising issues at the Family Violence Statewide Advisory Committee (also meeting 4 times a year). CLCs have had nothing else by which to systematically channel local experience on the ground to the statewide policy-making level involving all the relevant government departments. It is only recently that the Federation has been able to obtain (Legal Services Board) funding to begin to document the successes and barriers to family violence applicant lawyer work in the different courts around Victoria (due to start mid-2012).

It is also important to ensure that legal services and non-legal community services are able to effectively collaborate in the areas of case management, referral, and support after the immediate crisis has ended in matters such as housing and debt.

For these reasons, we believe that it is essential that a more balanced partnership be developed at regional level. This must facilitate equal participation by courts, lawyers and DHS-funded services, and have a more logical and smooth connection to the Statewide Committee. There may be some lessons from models at the local level, such as St Kilda Legal Service's new three-year project involving eight community organisations that are part of the Integrated Family Violence Inner Middle Partnership of the Southern Metropolitan Region, and Eastern Community Legal Centre's Family Violence Integration Partnership Project.

More broadly, there should be better conduits between justice practice and policy, such as a regular forum where all Victorian family violence Magistrate Court issues can be discussed, regardless of location of court and whether or not there is a specifically funded program.

3. As outlined in our response to Q1, we are concerned that the different forms of violence against women should not be collapsed together resulting in the dilution of strategies and impact. For example, while the Federation believes that there could be more useful information sharing and collaboration between the family violence and sexual assault sectors, we think that having one governance body for the two areas would be unworkable. As it stands, both statewide committees are already large with a considerable workload. We support DVRCV's suggestion that separate platforms and plans be considered for a number of areas, including primary prevention, so that specific focus is not lost in the larger agendas of family violence and sexual assault.

7. What are the potential barriers and risks to be managed and mitigated in delivery of the actions?

See our previous responses. The Federation believes that the greatest risk is that the system will 'go backwards' through integration momentum being lost.

Aboriginal and Torres Strait Islander women and children, women and children from diverse backgrounds and/or with disabilities and/or who are rural/remote, and others with complex needs [R31], along with hard to reach groups such as those experiencing same sex family violence or elder abuse, must be able to access effective and appropriate support as easily as other Victorian community members.

This next phase of development of the integrated response must also include improving response to victims of family violence at all points of interaction with the justice system (this has begun with the development of the Director of Public Prosecutions Victoria, *Director's Policy Family Violence*, prompted in part by the Deanne Bridgland case).

This means that the Framework's stated commitment to an anti-silo strategy must be backed up not only by working to maintain existing hard-built linkages, but also by a push for better integration more broadly, so that, for example, appropriate support services and peak bodies such as mental health, drug and alcohol services, health practitioners and the DPP are better linked in to the whole of government response.

8. What other issues need to be considered?
If you would like to provide comment on any specific action areas as set out in the Consultation Framework, please specify the number of the action area(s) on which you are commenting. For example P1, E12 or R29.

The Federation endorses DVRCV's comments on the specific action areas listed in the Framework.

Appendix A

Sexual Offences Advocacy Pilot Project

The Federation of Community Legal Centres has developed an advocacy pilot project which seeks to provide specialised support to sexual assault victims with a cognitive impairment and/or communication difficulties, in order to better address the factors influencing low reporting and successful prosecution rates and to increase access to justice for victims.

A partnership of cross-sector agencies and individuals from the sexual assault, disability and legal sectors has guided and coordinated each stage of development of the Advocacy Pilot Project. People with a cognitive impairment and/or communication difficulties have had direct input into the Project via consultations, and via representation on the Project Reference Group and through the organisations involved in the Project.

The Advocacy Pilot Project will be based for two years in Melbourne's South East region. South Eastern Centre Against Sexual Assault, Springvale Monash Legal Service and disability agencies will provide victims with:
• advocacy and support during dealings with police and prosecutors. Crisis support will be offered through a 24 hour service;
• ongoing advocacy and support during investigation, prosecution and court processes. Victims will

be helped to monitor, understand and participate in these processes;
• legal and other advice on criminal justice processes and the options and services available;
• legal support to access crimes compensation and other compensation options; and
• a skilled communication support service and other disability support services where required.

The Advocacy Pilot Project will build on the existing infrastructure, skills and expertise of agencies that are already working either with victim/survivors of sexual assault or with people with a cognitive impairment and/or communication difficulties. This building will involve increasing the skills of specialist workers who may, for example, be experienced in disability service provision but need more training in supporting victim/survivors of sexual assault; or who may be sexual assault counselors requiring support for assisting victim/survivors with particular cognitive or communication disabilities.

The emphasis of the Advocacy Pilot Project is on establishing pathways and opportunities for victim/survivors with a cognitive impairment and/or communication difficulties to access professional, appropriate and specialised services to advocate for their current and ongoing needs, independent of families, friends and carers. There will be a strong focus on data collection and evaluation with a view to modifying and expanding the pilot across Victoria in the future.

Appendix B

The costs of family violence and of legal help

Family violence presently costs Victoria about $2 billion annually.[2]

The most recent costing was commissioned as part of the work of the National Council to Reduce Violence against Women and their Children and was undertaken by KPMG.[3]

The KPMG work built on an earlier comprehensive study by Access Economics,[4] and is based on the projected costs of violence in the year 2021-22, in order to be consistent with the time frame of the National Plan.

Total costs are assessed via adding the sub-totals for different cost-bearing categories, which include: pain, suffering and premature mortality; health; production-related; consumption-related; second generation (eg costs to children of witnessing violence against their mother); and administrative (including the legal system). The costs in these categories are borne differentially by victim/survivors, children, perpetrators, friends and family, employers, governments, and the community.

As the KPMG study notes:
'The costs of the initiatives and the anticipated cost-effectiveness of investment are areas that should be considered as part of a detailed business case for investment.'[5]

[2] Victorian Auditor-General, *Implementing Victoria Police's Code of Practice for the Investigation of Family Violence* (June 2009) 1.
[3] National Council to Reduce Violence against Women and their Children, *The Cost of Violence against Women and their Children* (March 2009).
[4] Access Economics, *The Cost of Domestic Violence to the Australian Economy* (2004).
[5] National Council to Reduce Violence against Women and their Children, *The Cost of Violence against Women and their Children* (March 2009), 9.

Relevance to family violence applicant lawyer funding costs

While the KPMG study offers only an approximate cost and does not assess the cost-effectiveness of specific initiatives, it can provide a very rough guide to the costs that may be saved by funding family violence applicant lawyer positions.

Using the KPMG figures, for every woman whose experience of violence is prevented, a total of $22 723 per year is saved.[6] However, these costs are 2021-22 projections and therefore probably an over-estimate over the next few years.

More significant caveats concern the relationship between legal representation in civil proceedings under the *Family Violence Protection Act 2008* (Vic), which aims to stop violence which has already begun, and the goal of violence *prevention* which underpinned the KPMG study. First, even where a one-off advice and/or representation by an applicant lawyer results in an intervention order, it cannot be guaranteed to keep the woman safe from all future violence, although the chances of prevention of future violence from the same respondent are increased if the legal representation takes place in the context of a specialist family violence court where there is an integrated support system for victims/survivors.

Whether all violence against the applicant ceases permanently or temporarily, some potential costs, such as the financial impact of ongoing health effects, are likely to have already been set in motion by the time she seeks legal representation.[7] Costs are also not necessarily distributed evenly over the applicant's lifetime, and the question of when she sought legal help in comparison to when she first experienced the violence may be critical to costing.

In order to factor in these qualifiers, we assume a multiplier of 10%. This is likely to be an underestimate of costs, especially because neither the KPMG nor the Access Economic study costs those situations of *direct* family violence against not only women but also their *children* where it is likely that if the mother is protected, the children will also become safe (included on the family violence intervention order).

Multiplying by 10% then means that for every woman represented by a lawyer, $2 272 in costs are saved. Assuming that every newly funded applicant lawyer position costs $150 000 annually, including administration support, each lawyer would only have to represent 67 women in a year for costs to be neutral. In reality, community legal centre lawyers see far more clients than this. For example, Darebin CLC saw over 1300 clients through its family violence program in 2010/2011. Accordingly, the provision of legal services for affected family members is extremely cost-effective.

Outcomes:

- Reduction in family violence;
- Reduction in community costs of family violence;
- Services delivered in appropriate and effective manner;
- Identification of systemic issues impacting on family violence work; and
- Promotion of integrated family violence service delivery.

[6] This total does not include administrative costs, because these are mostly legal and therefore at least some of these costs would not necessarily be saved.

[7] This is in terms of the past violence having a cost impact into the future (past costs are already accounted for in the KPMG and Access Economics models).

Follow up

Do you give permission for the Office of Women's Policy OWP to obtain further information from you or your organisation? **If so, please ensure you have provided relevant contact details on page 1 of this submission.**

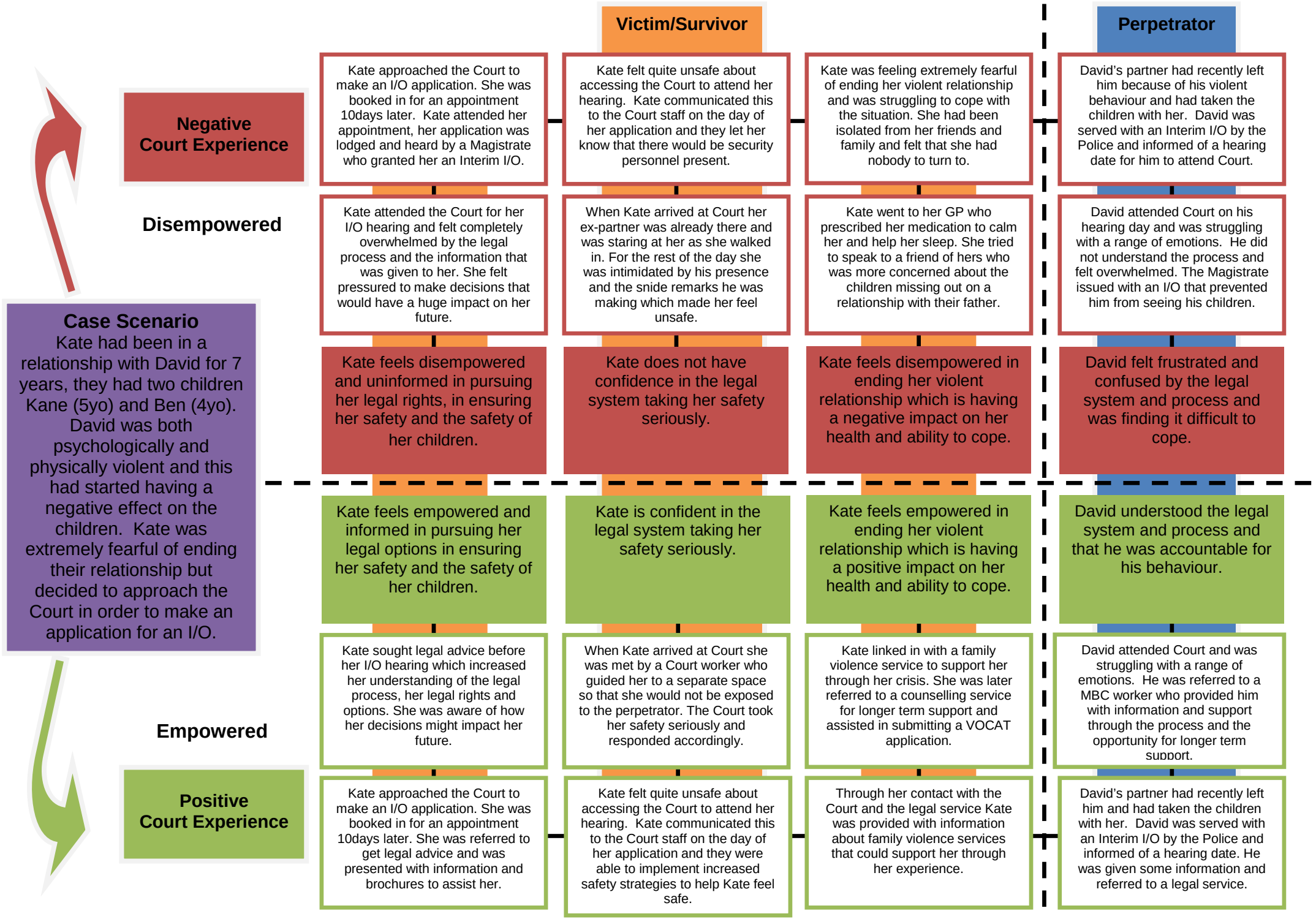
Yes

No

Written submissions are required **no later than Friday 23 March 2012**.

Please submit via email (in a Word.doc format) to submissions.owp@dhs.vic.gov.au.

The Minister for Women's Affairs **thanks you for taking the time to provide feedback** on the Action Plan Consultation Framework for addressing violence against women and their children.


Victim/Survivor
Perpetrator
Negative Court Experience
Kate approached the Court to make an I/O application. She was booked in for an appointment 10days later. Kate attended her appointment, her application was lodged and heard by a Magistrate who granted her an Interim I/O.
Kate felt quite unsafe about accessing the Court to attend her hearing. Kate communicated this to the Court staff on the day of her application and they let her know that there would be security personnel present.
Kate was feeling extremely fearful of ending her violent relationship and was struggling to cope with the situation. She had been isolated from her friends and family and felt that she had nobody to turn to.
David's partner had recently left him because of his violent behaviour and had taken the children with her. David was served with an Interim I/O by the Police and informed of a hearing date for him to attend Court.
Disempowered
Kate attended the Court for her I/O hearing and felt completely overwhelmed by the legal process and the information that was given to her. She felt pressured to make decisions that would have a huge impact on her future.
When Kate arrived at Court her ex-partner was already there and was staring at her as she walked in. For the rest of the day she was intimidated by his presence and the snide remarks he was making which made her feel unsafe.
Kate went to her GP who prescribed her medication to calm her and help her sleep. She tried to speak to a friend of hers who was more concerned about the children missing out on a relationship with their father.
David attended Court on his hearing day and was struggling with a range of emotions. He did not understand the process and felt overwhelmed. The Magistrate issued with an I/O that prevented him from seeing his children.
Kate feels disempowered and uninformed in pursuing her legal rights, in ensuring her safety and the safety of her children.
Kate does not have confidence in the legal system taking her safety seriously.
Kate feels disempowered in ending her violent relationship which is having a negative impact on her health and ability to cope.
David felt frustrated and confused by the legal system and process and was finding it difficult to cope.
Case Scenario
Kate had been in a relationship with David for 7 years, they had two children Kane (5yo) and Ben (4yo). David was both psychologically and physically violent and this had started having a negative effect on the children. Kate was extremely fearful of ending their relationship but decided to approach the Court in order to make an application for an I/O.
Kate feels empowered and informed in pursuing her legal options in ensuring her safety and the safety of her children.
Kate is confident in the legal system taking her safety seriously.
Kate feels empowered in ending her violent relationship which is having a positive impact on her health and ability to cope.
David understood the legal system and process and that he was accountable for his behaviour.
Kate sought legal advice before her I/O hearing which increased her understanding of the legal process, her legal rights and options. She was aware of how her decisions might impact her future.
When Kate arrived at Court she was met by a Court worker who guided her to a separate space so that she would not be exposed to the perpetrator. The Court took her safety seriously and responded accordingly.
Kate linked in with a family violence service to support her through her crisis. She was later referred to a counselling service for longer term support and assisted in submitting a VOCAT application.
David attended Court and was struggling with a range of emotions. He was referred to a MBC worker who provided him with information and support through the process and the opportunity for longer term support.
Empowered
Positive Court Experience
Kate approached the Court to make an I/O application. She was booked in for an appointment 10days later. She was referred to get legal advice and was presented with information and brochures to assist her.
Kate felt quite unsafe about accessing the Court to attend her hearing. Kate communicated this to the Court staff on the day of her application and they were able to implement increased safety strategies to help Kate feel safe.
Through her contact with the Court and the legal service Kate was provided with information about family violence services that could support her through her experience.
David's partner had recently left him and had taken the children with her. David was served with an Interim I/O by the Police and informed of a hearing date. He was given some information and referred to a legal service.

Case Study

Mandy became involved with the legal component of the family violence service system after a decision to separate from her partner when his violence put both herself and her 2 week old baby at risk. Mandy was advised by Victoria Police to access the Magistrates' Court to make an application for an Intervention Order.

Mandy attended her appointment at the Court and furthermore went before a Magistrate to have an Interim Intervention Order considered. *'I was not expecting that the Magistrate would be so stern and have so many questions to ask me. I felt like I was being judged and that they didn't believe me. I froze and was only able to give 1 or 2 worded answers, so I wasn't able to explain how unsafe we were. I wasn't given the Order. It would have been so much better if I knew what to expect in the hearing, I had never been in a Court before.'*

Mandy reported that she almost did not return to Court for her the hearing. *'The whole Court experience was really scary. I really started doubting whether I should go through with it, I really didn't want to come back to Court after that but I knew I had to be strong to protect my baby.'*

Mandy and her mother tried to get as much information about what would happen at her Court hearing. *'I couldn't afford to get a private lawyer but I didn't know if I had to. I tried to get information but nobody could tell me anything. My mum was on the phone just trying to call people to find out information, in the end it was friends and family and a neighbour who were able to help. It was quite distressing not to have the right information.'*

When Mandy appeared at the Counter, the Court Registrar identified that she was feeling vulnerable and referred her to the Protected Persons Space. *'From the moment I walked into this room everything has worked out really well. As anxious and as terrified as I was, I feel safe in this space. It's a huge thing not to have to see him; him just looking at me intimidates me and makes me shut down.'*

Mandy was able to link in with the EDVOS Applicant Worker and received advice from the Duty Lawyer, who were able to provide her with the information, support and advice she needed. *'The family violence worker was very calm but very strong and she was able to give me all the information I needed. The lawyer was also really considerate in how she spoke to me and I understood everything she was saying. At one stage she realised that she had said something that was confusing and she pointed it out and repeated it in a different way without me having to tell her I didn't understand. I just wish I knew all of this before I came here today'*

'I told the lawyer that there was no way I could be in the same Court room with him, but after today and all the support I have had I feel as though I could do it.'