



11 April 2011

Ms Sabina Wynn  
Executive Director  
Australian Law Reform Commission  
GPO Box 3708  
SYDNEY NSW 2001

**By email: [cwlth\\_family\\_violence@alrc.gov.au](mailto:cwlth_family_violence@alrc.gov.au)**

Dear Ms Wynn,

**Family Violence and Commonwealth Laws: Employment and Superannuation Law Issues Paper**

1. Women's Legal Services NSW (WLS NSW) thanks the Australian Law Reform Commission for the opportunity to comment on the Employment and Superannuation Law Issues Paper as part of the Family Violence and Commonwealth Laws Inquiry.
2. WLS NSW is a community legal centre that aims to achieve access to justice and a just legal system for women in NSW. We seek to promote women's human rights, redress inequalities experienced by women and to foster legal and social change through strategic legal services, community development, community legal education and law and policy reform work. We prioritise women who are disadvantaged by their cultural, social and economic circumstances. We provide specialist legal services relating to domestic and family violence, sexual assault, family law, discrimination, victims compensation, care and protection, human rights and access to justice.
3. One of our three specialist teams, the Domestic Violence Legal Service, is dedicated specifically to assisting women experiencing domestic violence. Through our Domestic Violence Legal Advice Line, duty solicitor work at courts in Western Sydney and casework and representation of women experiencing domestic violence, we regularly assist women whose employment has been impacted by domestic violence.
4. WLS NSW does not have capacity at this time to contribute a detailed submission to this inquiry but believe that this is an important and necessary area for reform. We would be happy to talk to ALRC staff about our experiences in this area if that is of assistance.
5. WLS NSW endorses the submission made by the Australian Domestic and Family Violence Clearinghouse (ADFVC) to this inquiry. In particular, WLS NSW recommends



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that the ALRC adopt the following recommendations made by the ADFVC in their submission. We believe that these reforms are necessary to ensure the safety of employees experiencing family violence and support victims to remain in paid employment.

**Recommendation 1: Right to Request Flexible Working Arrangements (Q 8)**

- The *Fair Work Act 2009* (Cth) should be amended to include a right to request flexible working arrangements for employees experiencing family violence.
- This right to request should be available to all employees, with no qualifying period.

**Recommendation 2: Paid Leave for Employees Experiencing Family Violence (Q 9 and 10)**

- The *Fair Work Act 2009* (Cth) should be amended to include an entitlement to paid leave for employees experiencing family violence, to allow them to take time off to attend court dates and appointments with support services.
- This leave entitlement should not be subject to a minimum employment period and should not need to be accrued in advance.

**Recommendation 3: Family Violence as a Separate Ground of Discrimination (Q 19)**

- Family violence victim status should be included as a separate protected ground under the general protections and unlawful termination provisions of the *Fair Work Act 2009* (Cth), sections 351(1) and 772(1)(f).

**Recommendation 4: Acts of Family Violence Included as a Notifiable Incident (Q 22)**

- Section 35 of the Model Work Health and Safety Bill should include acts of family violence as a 'notifiable incident'.
- This will assist with improving data collection in relation to the incidence of family violence in the workplace.

**Recommendation 5: OHS Code of Practice on Family Violence in the Workplace (Q 23)**

- Family violence in the workplace should be addressed in a specific Code of Practice to assist duty holders in risk management.

**Recommendation 6: Early Access to Superannuation on Compassionate Grounds (Q 31)**

- Victims of family violence should be entitled to early access to superannuation funds on hardship grounds, but only as a last resort. Instead, access to adequate financial support should be improved by addressing issues with social security, employment and victims compensation, including access to legal services that can be necessary to access these funds.

WOMEN'S LEGAL SERVICES NSW

6. If you would like to discuss any aspect of this submission, please contact Edwina MacDonald, Law Reform and Policy Coordinator, or Janet Loughman, Principal Solicitor, on 02 8745 6900.

Yours sincerely,

A handwritten signature in cursive script, appearing to read 'Edwina MacDonald'.

Edwina MacDonald  
Law Reform and Policy Coordinator