

4. Disclosure and Issues Management

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Summary

4.1 This chapter considers ways in which agencies within the Department of Human Services (DHS) portfolio—in particular Centrelink, the Child Support Agency (CSA) and the Family Assistance Office (FAO)—can better identify and respond to family violence-related safety concerns.

4.2 There was substantial agreement among stakeholders about the need for DHS to identify and respond to family violence-related safety concerns, with disagreement largely centred on how this could be best achieved by DHS. The ALRC also notes that DHS has already begun a process of considering the range of matters raised in this chapter. The ALRC’s recommendations are aimed at complementing such initiatives.

4.3 The ALRC recommends that DHS staff providing customer services should facilitate the disclosure of family violence-related safety concerns by providing information about how family violence may be relevant to a person’s social

security, child support and family assistance case, at the point of registration and at subsequent intervention points.

4.4 The identification of family violence-related safety concerns should result in an appropriate issues management response, which may include referral to a Centrelink social worker or other expert service providers. To assist with this, and to reduce the need for a customer to re-disclose, the ALRC recommends that DHS should consider developing and implementing a ‘safety concern’ flag to be placed on a customer’s file where family violence-related safety concerns are identified. This flag should be available to relevant agencies subject to informed consent of the customer and with appropriate privacy safeguards.

4.5 Lastly, the ALRC recommends that DHS staff receive consistent, regular and targeted training and education to ensure that they are appropriately equipped to deal with family violence-related safety concerns.

Relevant concepts

4.6 In this chapter, and in Chapter 12, the ALRC will refer to the concepts of ‘identifying family violence-related safety concerns’ and ‘issues management’.

Identifying family violence-related safety concerns

4.7 There are a number of tools and methods that may be used to identify family violence-related safety concerns. In the Discussion Paper, the ALRC outlined the concept of ‘screening’ for family violence, being ‘the systemic application of a test or enquiry (a series of questions) to identify individuals at sufficient risk of violence to benefit from further investigation or direct preventative action’.¹ ‘Screening’ helps to identify those at risk, by seeking to elicit a victim’s fear or disclosure of violence, or to elicit whether there is a risk of violence in the future to a customer.²

4.8 Apart from ‘screening’, the disclosure of family violence-related safety concerns can be promoted by other tools and measures.³ These include the provision of information about family violence and how it is relevant to a customer’s entitlement and claims, and assurances to the customer that such disclosure will lead to an adequate response.

1 Australian Law Reform Commission, *Family Violence and Commonwealth Laws*, Discussion Paper 76 (2011), 123 referring to Australian Institute of Social Relations, *Screening, Risk Assessment and Safety Planning* (2010).

2 Australian Institute of Social Relations, *Screening, Risk Assessment and Safety Planning* (2010).

3 Stakeholders have also noted, for example, that practical measures such as conducting an interview in private or ensuring a customer has access to a person of the same cultural background may be conducive to disclosure of family violence-related concerns.

Issues management

4.9 In the report, *Delivering Quality Outcomes—Report of the Review of Decision Making and Quality Assurance Processes of the Child Support Program*, David Richmond described the interface between the DHS agencies—Centrelink, the CSA, and the FAO—and their customers as characterising ‘issues management’.⁴ Richmond distinguishes this from the term ‘case management’, which involves, ‘the handling of a customer by a dedicated case officer over an extended, if not indefinite period of time’.⁵

4.10 In its submission, DHS referred to a new service delivery approach called ‘Case Coordination’, which is currently being trialled to provide customers ‘facing disadvantage or complex challenges with better integrated services and intensive support’.⁶ The level of support and assistance varies, depending on customer need, from ‘simple referrals to services or information through to intensive support involving multiple coordinated appointments with non-government and local community services’.⁷

4.11 The ALRC uses the term ‘issues management’ to describe agencies’ interface with customers. However, its recommendations in relation to issues management in this chapter and in Chapters 5 and 12 may fit within, or complement, DHS’ Case Coordination approach.

Promoting the disclosure of family violence

Service delivery reform

4.12 The DHS is responsible for the development of service delivery policy and provides access to social, health and other payments and services.⁸ The *Human Services Legislation Amendment Act 2011* (Cth) integrated the services of Medicare Australia, Centrelink and CRS Australia on 1 July 2011 into DHS.⁹

4.13 As part of these reforms, agencies within the DHS portfolio have been integrating back-office support services, information systems, customer contact areas, and co-locating some shopfronts.¹⁰ A key goal of integration is to provide seamlessness for customers who access services delivered by the DHS portfolio.¹¹ In addition, it is envisaged that it will allow a ‘tell us once’ approach for customers,

4 D Richmond, *Delivering Quality Outcomes—Report of the Review of Decision Making and Quality Assurance Processes of the Child Support Program* (2010), [4.3.6].

5 Ibid.

6 DHS, *Submission CFV 155*.

7 Ibid.

8 T Plibersek, *The Human Services Portfolio* <http://www.mhs.gov.au/the_human_services_portfolio.php> at 22 July 2011. DHS was created on 26 October 2004 as part of the Finance and Administration portfolio.

9 DHS Website <www.humanservices.gov.au/corporate/about-us/> at 14 December 2011.

10 Revised Explanatory Memorandum, *Human Services Legislation Amendment Bill 2010* (Cth).

11 DHS, *Additional Submission to the Senate Community Affairs Committee Inquiry of the Human Services Legislation Amendment Bill 2010* (2011).

and make it easier to update their details once, should they choose to have their information shared.¹²

4.14 DHS’ ‘Case Coordination’ trials¹³ are aimed at providing integrated and intensive support to those who most need it—in particular, those who are homeless, long-term unemployed, living with disability, or those with alcohol and drugs dependency.¹⁴

A duty to seek disclosure

4.15 In Chapter 1, the ALRC discusses the reasons many do not disclose family violence. Stakeholders have argued that, as ‘family violence is seriously under-reported’,¹⁵ there is a need for service delivery agencies to identify or promote disclosure of family violence-related safety concerns. For example, the Commonwealth Ombudsman argued that service delivery agencies

have an obligation to, wherever possible, actively seek information from customers about any circumstances which might affect their capacity to actively engage with government, or which might affect the type, rate or conditions of payments or services they are, or may be eligible for.¹⁶

4.16 Currently DHS agencies—Centrelink, CSA and the FAO—rely on self-disclosure of family violence. For example, staff providing customer services do not ask routine questions about family violence and application or information forms for various social security payments do not include specific information about family violence.¹⁷

4.17 A number of stakeholders called for DHS—Centrelink and the CSA in particular¹⁸—to take measures to: screen for family violence or safety concerns;¹⁹ ensure customers are aware that specific provisions exist in relation to family

12 Ibid.

13 DHS, *Budget 2011-12: Increased Support for People Needing Assistance* (2011).

14 Ibid. Case coordination trials are being planned for 19 sites in 2011–12, with a total of 44 sites by 2013–14.

15 Council of Single Mothers and their Children, *Submission CFV 44*. The issue of under-reporting of family violence is discussed in Ch 1.

16 Commonwealth Ombudsman, *Submission CFV 62*.

17 For example, application forms do not explain how family violence may form the basis for an exemption from participation, activity or Employment Pathway Plan requirements, or from providing original proof of identity or tax file numbers.

18 Commonwealth Ombudsman, *Submission CFV 62*; Joint submission from Domestic Violence Victoria and others, *Submission CFV 59*; Council of Single Mothers and their Children (Vic), *Submission CFV 55*; M Winter, *Submission CFV 51*; Council of Single Mothers and their Children, *Submission CFV 44*.

19 Council of Single Mothers and their Children (Vic), *Submission CFV 55*; Council of Single Mothers and their Children, *Submission CFV 44*.

violence;²⁰ and indicate a willingness to discuss and deal with family violence-related matters.²¹

4.18 Some stakeholders suggested that ‘screening’ via ‘direct questioning’ was the preferred and most effective method of identifying family violence related-safety concerns, rather than relying on ‘oblique invitations to self-identify’.²² Academic commentators have supported direct questioning as an effective method of eliciting information about family violence.²³

4.19 In the Discussion Paper, the ALRC proposed that CSA, FAO staff and Centrelink customer service advisers, social workers, Indigenous Service Officers and Multicultural Service Officers should, when commencing application processes with a customer, immediately after that, and at defined intervals and trigger points,²⁴ screen for family violence by way of a short oral statement about family violence and the existence of support services, such as a Centrelink social worker.²⁵ This should be combined with the provision of an information pack on family violence and its relevance to a person’s social security, child support and family assistance case.²⁶ The ALRC considered that this was an appropriate response which would:

- allow for individual choice as to the disclosure of family violence;
- not assume that everyone is a victim of family violence; and
- be less labour-intensive for front line staff.²⁷

An information-based approach

4.20 Stakeholders were supportive of the ALRC’s proposals around ‘screening’ and promoting the disclosure of family violence.²⁸ However, rather than routine

20 Commonwealth Ombudsman, *Submission CFV 62*; Council of Single Mothers and their Children (Vic), *Submission CFV 55*; Council of Single Mothers and their Children, *Submission CFV 44*.

21 Council of Single Mothers and their Children (Vic), *Submission CFV 55*; National Council of Single Mothers and their Children, *Submission CFV 45*; Council of Single Mothers and their Children, *Submission CFV 44*.

22 ADFVC, *Submission CFV 53*. See also WEAVE, *Submission CFV 58*; National Council of Single Mothers and their Children, *Submission CFV 57*.

23 M Bonner, L Campillo and G Cosier, ‘I Have Learnt How to Ask Questions: Implementing Screening for Domestic Violence’ (Paper presented at Expanding our Horizons Conference, Sydney, 18–22 February); Attorney-General’s Department, *Screening and Assessment in the Family Relationship Centres and the Family Relationships Advice Line: Practice Framework and Guidelines* (2006).

24 In this Report, the ALRC prefers the term ‘intervention points’ as being consistent with the language used by DHS.

25 Australian Law Reform Commission, *Family Violence and Commonwealth Laws*, Discussion Paper 76 (2011), Proposal 4–2.

26 *Ibid*, Proposal 4–3.

27 *Ibid*, 132.

28 Confidential, *Submission CFV 165*; National Legal Aid, *Submission CFV 164*; FaHCSIA, *Submission CFV 162*; DHS, *Submission CFV 155*; National Welfare Rights Network, *Submission CFV 150*; Indigenous Law Centre, *Submission CFV 144*; NSW Women’s Refuge Movement Working Party, *Submission CFV 120*; Gippsland Community Legal Service, *Submission CFV 114*; ADFVC, *Submission CFV 102*; Women’s Information and Referral Exchange, *Submission CFV 93*; WEAVE, *Submission CFV 84*.

and direct questioning, a number of stakeholders called for an information-based approach to promote a customer's disclosure of family violence-related safety concerns.²⁹ Throughout the Inquiry, stakeholders have argued that the lack of knowledge about the relevance of family violence presents a barrier to disclosure.³⁰ For example, the National Welfare Rights Network (NWRN) submitted:

There is a considerable lack of awareness of entitlements, exemptions and assistance available for a person experiencing family violence. This is especially the case in relation to the area of exemptions from activity requirements and entitlements to income support payments.³¹

4.21 Therefore, NWRN considered that an information-based approach was most appropriate, given the position of DHS as a 'master agency'. In its view, the service delivery reforms 'should allow for greater reach of consistent information dissemination and messaging to target audiences with the aim of improving awareness of support services'.³²

4.22 Similarly, the Australian Association of Social Workers (Qld) and the Welfare Rights Centre (Qld) argued that:

Routine direct inquiry is problematic and potentially risky for victims of family violence. We would advocate an approach that uses the provision of information at all aspects of client engagement which could include printed forms, brochures, posters and websites. This would serve to inform victims of family violence as well as provide them with options which may be open to them for support.³³

4.23 DHS agreed about the need to provide detailed information about family violence and its impact on entitlements at 'multiple points during the life of a customer's case, including at the initial application for registration' and stated that it was 'actively exploring a number of approaches to risk identification, screening and assessment for different customer interactions'.³⁴

4.24 However, DHS did not consider the provision of information to be a 'screening' mechanism and were cautious about requiring staff to provide detailed verbal information about family violence. While acknowledging that the 'the most effective models of "screening" involved routine questions at key intervention points', DHS considered that any 'screening' proposal must form part of a wider risk-assessment framework that considers:

Customer responses or behaviours which might indicate family or domestic violence;
Proactive risk identification questions at the point the customer first makes contact with programs where family and domestic violence may be an issue; and

29 National Legal Aid, *Submission CFV 164*; National Welfare Rights Network, *Submission CFV 150*; AASW (Qld) and WRC Inc (Qld), *Submission CFV 140*; Aboriginal & Torres Strait Islander Women's Legal & Advocacy Service, *Submission CFV 103*.

30 See Ch 1 for a more in depth discussion of the barriers to the disclosure of family violence.

31 National Welfare Rights Network, *Submission CFV 150*.

32 *Ibid.*

33 AASW (Qld) and WRC Inc (Qld), *Submission CFV 140*.

34 DHS, *Submission CFV 155*.

Screening questions at certain key administrative events linked to greater risk of family and domestic violence.³⁵

4.25 DHS cited particular concerns that the provision of detailed verbal information about family violence by staff providing customer services would need to be considered in light of ‘the length and information level already associated with current interviews and processes’ and the ‘increase in workload’ required to incorporate verbal provision of information within customer interactions.³⁶

4.26 There was stakeholder support for the proposal that ‘screening’ should take into consideration a customer’s cultural and linguistic background, as well as a person’s capacity to understand, such as due to cognitive disability.³⁷ For example, the Aboriginal and Torres Strait Islander Women’s Legal Services NQ Inc submitted that

an Aboriginal or Torres Strait Islander woman should be given choices as to who she speaks to in the screening process. Not every woman wants to speak to a person from her own culture about the problem, but she should have the option if this makes disclosure easier and support services more accessible.³⁸

4.27 The Aboriginal and Torres Strait Islander Women’s Legal Advocacy Service argued that ‘screening’ via a short statement may not be culturally appropriate for Indigenous women, and that ‘screening should always be performed in private by an Indigenous woman’.³⁹ However, the Indigenous Law Centre cautioned that, given the interconnectedness in Indigenous communities,

it may be inappropriate to call in an Indigenous service officer to screen or interview an Indigenous client when family violence is suspected, particularly, if a kinship connection to the client or the client’s partner exists which could present as a conflict of interest.⁴⁰

4.28 The Centre recommended that ‘screening’ should directly seek information about family violence via ‘a question, or series of question about family violence’ on application forms, correspondence and telephone prompts.⁴¹

Proactive risk identification

4.29 In its submission, DHS advised that a Child Support Family Violence Risk Identification Pilot was being trialled in two sites. The pilot focuses on ‘proactive family violence risk identification’.⁴² As part of the pilot, a small sample of Customer Service Officers asked customers brief questions at key points—initial

35 DHS, *Submission CFV 155*.

36 Ibid.

37 National Legal Aid, *Submission CFV 164*; National Welfare Rights Network, *Submission CFV 150*; AASW (Qld) and WRC Inc (Qld), *Submission CFV 140*; ADFVC, *Submission CFV 102*; Women’s Information and Referral Exchange, *Submission CFV 93*; WEAVE, *Submission CFV 84*.

38 Aboriginal & Torres Strait Islander Women’s Legal Service North Queensland, *Submission CFV 99*.

39 Aboriginal & Torres Strait Islander Women’s Legal & Advocacy Service, *Submission CFV 103*.

40 Indigenous Law Centre, *Submission CFV 144*.

41 Ibid.

42 DHS, *Submission CFV 155*.

registration and requests for change of assessment—preceded by a short introductory statement about family violence. DHS noted that

the question were designed to be as inclusive as possible and simple enough to avoid re-traumatisation or prompt detailed responses which might lead to needing to re-tell the story again later, and also vicarious traumatisation of staff.⁴³

4.30 Where customers responded positively to concerns about safety, they were offered ‘warm transfers’⁴⁴ to appropriate family violence and similar services, which can provide further assessment and support. Where a customer declined the warm transfer, they were offered contact information about relevant services. If particular concerns about family violence were indicated, a ‘sensitive issues indicator’ for family violence is activated on their electronic record.⁴⁵

4.31 This appears to be a hybrid approach in which ‘screening’—by way of direct questioning—is combined with the provision of verbal information to customers. Importantly, the disclosure of family violence-related safety concerns triggers an issues management response, which involves both referral to appropriate services and information sharing by way of the ‘sensitive issues indicator’.

4.32 The Commonwealth Ombudsman considered this a ‘very important initiative’ and noted positively that ‘Child Support has reported a high proportion of customers in the pilot have identified safety concerns and have accepted referrals to an external organisation for assistance or advice’.⁴⁶

A multi-faceted response

4.33 The ALRC recommends that DHS provide all customers with information about how family violence may be relevant to the child support, family assistance, social security and Job Services Australia systems. The information should be presented in a range of formats, including: electronic and paper claim forms, posters and brochures, websites, telephone prompts and publications. Information should be provided at, or immediately following, the application process and at defined intervention points.⁴⁷

4.34 Information dissemination can be reinforced by a short verbal statement to the same effect from DHS staff providing customer services. This is a necessary and practical step in promoting the disclosure of family violence, as it communicates a message to customers that DHS is willing to engage with customers on family violence-related issues. This may improve trust and

43 Ibid. The questions are asked of both paying and receiving parents of both genders.

44 Ibid. A ‘warm transfer’ to be the ability to transfer a customer’s call directly from the Child Support program to the service provider without the customer having to end the call—in effect, the customer is able to speak to the service provider as part of the same call he or she made to the Child Support program.

45 The sensitive issues indicator is discussed below in the context of privacy and information sharing.

46 Commonwealth Ombudsman, *Correspondence*, 28 October 2011.

47 In particular, intervention points are discussed in Ch 12 (in relation to child assessment claims and change of assessment) and Ch 5 (in relation to social security payments).

empathetic engagement with customers that may allow for the disclosure of family violence.

4.35 The provision of information to promote the disclosure of family violence-related safety concerns by a customer is consistent with a major theme of this Inquiry—that of self-agency. As stakeholders have argued, it is important that customers should have the right to choose whether, and how, they disclose family violence.⁴⁸ In the ALRC’s view, that right is best promoted by service agencies fostering an environment in which customers are well informed about how family violence may be relevant to their circumstances and can be assured that, once family violence-related safety concerns are disclosed, an appropriate and empathetic issues management response will be triggered.

4.36 The ALRC considers that such goals are achievable within DHS’ service delivery reforms. For example, training staff to give a statement about the relevance of family violence could be fed into current training procedures.

Targeting recommendations: policy or procedure?

4.37 The majority of stakeholders supported the ALRC’s proposal that information about ‘screening’ for family violence be included in the *Child Support Guide*, the *Family Assistance Guide* and the *Guide to Social Security Law*.⁴⁹ The ALRC considers that providing guidance about the provision of information and the making of a verbal statement about the relevance of family violence in these Guidelines is of particular importance.

4.38 Significant information about the relevance of family violence should be contained in publicly-articulated policy guides, rather than contained in non-publicly accessible instructions. Including information in the Guides should improve transparency and may also enhance consistency and accountability. Importantly, it should also improve general awareness, among customers and their advocates, about measures in place to protect the safety of victims of violence, and may help in promoting disclosure.

Expansion of the Child Support Family Violence pilot

4.39 The Child Support Family Violence pilot provides potential for robust ‘screening’ procedures—revolved around asking questions at identified intervention points—to be utilised in identifying family violence-related safety concerns. However, a wider policy around ‘screening’ would require consideration of a number of issues, including resourcing. For example, a robust ‘screening’ model requires a highly skilled workforce, and the ALRC recognises that this may

48 See eg, National Welfare Rights Network, *Submission CFV 150*.

49 National Legal Aid, *Submission CFV 164*; National Welfare Rights Network, *Submission CFV 150*; Aboriginal & Torres Strait Islander Women’s Legal Service North Queensland, *Submission CFV 99*; ADFVC, *Submission CFV 102*; Women’s Information and Referral Exchange, *Submission CFV 93*; WEAVE, *Submission CFV 84*.

require significant outlays towards education and training of DHS staff. As DHS submitted:

DHS is not in a position to commit to specific servicing of customers impacted by family violence until resourcing issues are fully understood, costed and priorities and negotiated with partner agencies and Government. Resourcing pressures include staff time, training and systems and procedural support.⁵⁰

4.40 The ALRC notes that, if the pilot is successful in achieving high disclosures of family violence-related safety concerns, DHS may wish to consider expanding the pilot program to other areas beyond the CSA. The success or otherwise of the pilot may indicate whether further reforms towards a more robust ‘screening’ model are necessary.

Recommendation 4–1 The *Child Support Guide*, *Family Assistance Guide* and the *Guide to Social Security Law* should indicate that staff providing customer services, including Centrelink social workers, Indigenous Service Officers, and Multicultural Service Officers should identify family violence-related safety concerns through screening, risk identification, or other methods. Identification of such concerns should occur at, or immediately following, the application process, and at defined intervention points (including as set out in Recommendations 12–1 and 12–3).

Recommendation 4–2 The Department of Human Services should provide information to customers about how family violence may be relevant to their child support, family assistance and social security matters. This should be provided in a variety of formats and should include relevant information about:

- (a) exemptions;
- (b) entitlements;
- (c) privacy and information protection;
- (d) support and services provided by the Child Support Agency, the Family Assistance Office and Centrelink;
- (e) referrals to Centrelink social workers and expert service providers; and
- (f) income management.

Issues management

4.41 The ALRC recommends that when family violence-related safety concerns are identified, the DHS staff must refer the customer to a Centrelink social worker or other expert service providers.

50 DHS, *Submission CFV 155*.

Referrals and pathways

4.42 Stakeholders uniformly agreed that once family violence-related safety concerns are disclosed—through ‘screening’ processes or otherwise—there was a need to ensure an immediate response and, in particular, referral to necessary support services.⁵¹ For example, DHS submitted that:

risk identification should not occur in the absence of an immediate supportive response being available to the customer ... Risk identification must be accompanied by the immediate availability of someone qualified to carry out a more complex screening and assessment, and to provide support and advocacy.⁵²

4.43 Within the agencies under DHS, a number of guidelines provide for the referral to a Centrelink social worker when family violence is disclosed, including the *Guide to Social Security Law*, the Job Seeker Classification Instrument (JSCI) Guidelines and related Department of Education, Employment and Workplace Relations (DEEWR) advices. However, it is not consistently provided for in the *Child Support Guide* and *Family Assistance Guide*.

4.44 In the Discussion Paper, the ALRC proposed that when family violence is identified or disclosed, through the ‘screening’ process, or otherwise, Centrelink, Child Support Agency and Family Assistance Office staff must make a referral to a Centrelink social worker.⁵³ This reflected the policy position that staff providing customer service are not skilled to conduct risk assessment, and that this is a role most suited to a social worker.

4.45 A number of stakeholders supported this proposal.⁵⁴ There was general agreement that social workers play an important role in providing support to victims of family violence, and were best placed to make further referrals to legal and non-legal services.⁵⁵ The NWRN also noted that Centrelink social workers play an important role in the ‘training and support they provide to other Centrelink staff to enable those other workers to provide an appropriate service response to people experiencing family violence’.⁵⁶

51 Ibid; FaHCSIA, *Submission CFV 162*; Indigenous Law Centre, *Submission CFV 144*; Women’s Information and Referral Exchange, *Submission CFV 93*.

52 DHS, *Submission CFV 155*.

53 Australian Law Reform Commission, *Family Violence and Commonwealth Laws*, Discussion Paper 76 (2011), Proposal 4–10.

54 National Legal Aid, *Submission CFV 164*; FaHCSIA, *Submission CFV 162*; National Welfare Rights Network, *Submission CFV 150*; Lone Fathers Association Australia, *Submission CFV 109*; Women’s Information and Referral Exchange, *Submission CFV 93*; WEAVE, *Submission CFV 84*.

55 National Legal Aid, *Submission CFV 164*; National Welfare Rights Network, *Submission CFV 150*.

56 National Welfare Rights Network, *Submission CFV 150*.

4.46 Stakeholders also supported the creation of a specialist family violence unit or team within DHS,⁵⁷ with a number suggesting that a specialist team would be an appropriate point for referral.⁵⁸ It was suggested that a specialised family violence team could case manage ongoing interactions between various sections of Centrelink, the CSA and the client.⁵⁹

4.47 Other stakeholders suggested that specialist family violence teams could include case workers from Aboriginal and Torres Strait islander communities and those from linguistically diverse backgrounds.⁶⁰ This would help to ensure that, where appropriate, referrals can be made taking into account a customer's cultural and linguistic needs.

4.48 Stakeholders suggested that a specialist team could assume a range of responsibilities that could include:

- acting as the first point of contact for victims of family violence;⁶¹
- coordinating the provision of information and referral to support services;⁶²
- acting as a conduit between the victim and government agencies;⁶³
- critically discussing the various options available to customers, and supporting them in their decisions and their negotiation through the system,⁶⁴ and
- organising exemptions and reviews.⁶⁵

A responsive and flexible approach

4.49 DHS agreed that the identification of family violence must elicit an immediate response to link the customer with support services, but noted that, 'referral to a social worker is not the only response and that it is important to

57 AASW (Qld) and WRC Inc (Qld), *Submission CFV 140*; NSW Women's Refuge Movement Working Party, *Submission CFV 120*; Aboriginal & Torres Strait Islander Women's Legal & Advocacy Service, *Submission CFV 103*; ADFVC, *Submission CFV 53*; National Council of Single Mothers and their Children, *Submission CFV 45*; Council of Single Mothers and their Children, *Submission CFV 44*.

58 AASW (Qld) and WRC Inc (Qld), *Submission CFV 140*; NSW Women's Refuge Movement Working Party, *Submission CFV 120*.

59 AASW (Qld) and WRC Inc (Qld), *Submission CFV 140*.

60 Ibid; Aboriginal & Torres Strait Islander Women's Legal & Advocacy Service, *Submission CFV 103*/

61 National Council of Single Mothers and their Children, *Submission CFV 45*.

62 ADFVC, *Submission CFV 53*; National Council of Single Mothers and their Children, *Submission CFV 45*; Council of Single Mothers and their Children, *Submission CFV 44*.

63 National Council of Single Mothers and their Children, *Submission CFV 45*; Council of Single Mothers and their Children, *Submission CFV 44*.

64 Council of Single Mothers and their Children, *Submission CFV 44*.

65 National Council of Single Mothers and their Children, *Submission CFV 45*.

recognise the roles of other services in the family violence sector'.⁶⁶ This position was also supported by a number of other stakeholders.⁶⁷

4.50 DHS argued for a more nuanced response, taking into account the customer's current circumstances and concerns:

It is not correct to presume that every customer who presents with or identifies a family violence issue requires a high level of intervention through a social worker. In some circumstances, lower level responses, such as information provision, may be appropriate, and in some situations customers may be receiving suitable assistance through other organisations in the family violence sector and only financial assistance is sought from DHS.⁶⁸

4.51 In particular, DHS emphasised that the aim of 'Case Coordination' was to provide appropriate referrals to support services such as refuges, 1800-RESPECT, Family Relationship Centres, the Family Relationships Advice Line, and the Child Support program's Parent Support Service, rather than case management.

4.52 The ALRC considers that an issues management response to the disclosure of family violence-related safety concerns should take into account a customer's needs and individual circumstances. While the Centrelink social worker is generally well placed to provide assistance to a customer, the ALRC agrees with DHS that referral to a Centrelink social worker may not always be the most appropriate response. Mandating referral to a Centrelink social worker may be unnecessary if a customer does not want, or need, high level support. In other instances, such as where a person has a disability, stakeholders have suggested that referrals should be made directly to expert service providers in the disability sector, rather than to a Centrelink social worker.

4.53 However, in some circumstances referral to a Centrelink social worker is essential. For example, in Chapter 12, the ALRC considers that it is suitable for the CSA to refer a customer to a Centrelink social worker when the customer takes action that may affect their compliance with the 'reasonable maintenance action' requirement and their Family Tax Benefit (FTB) Part A. Where this is the case, the ALRC recommends relevant Guidelines should direct staff to refer the person to a Centrelink social worker.

4.54 There are good policy reasons—consistent with the *National Plan to Reduce Violence against Women* strategies around coordinated responses—to recognise the range of expert providers within the family violence sector who play a role assisting victims of family violence.⁶⁹ An advantage of a nuanced response is that it allows these actors to have a significant role in supporting victims. Referrals to

⁶⁶ DHS, *Submission CFV 155*.

⁶⁷ National Legal Aid, *Submission CFV 164*; Women's Information and Referral Exchange, *Submission CFV 94*.

⁶⁸ DHS, *Submission CFV 155*.

⁶⁹ See eg Australian Government, *The National Plan to Reduce Violence against Women: Immediate Government Actions* (2009), 9.

other expert service providers, where appropriate, may also reduce the workload on Centrelink social workers and allow for more considered responses for cases that require high level intervention.

4.55 The ALRC also supports the creation of specialised family violence units within DHS. Specialised family violence teams may be a particularly useful referral point for customers from Aboriginal and Torres Strait Islander backgrounds, persons with disability, and others in need of a higher level of support. Beyond this, there is scope for specialist units to undertake a wide range of responses commensurate with a customer's needs. While the ALRC makes no recommendations about specialist family violence units—given it would carry significant resourcing implications at this early stage in DHS' integration—it notes that such units could be considered within DHS' Case Coordination trials, with a long-term view to their wider establishment.

Recommendation 4-3 The *Child Support Guide*, the *Family Assistance Guide*, and the *Guide to Social Security Law* should provide that, when family violence-related safety concerns are identified, the Department of Human Services staff providing customer services must refer the customer to a Centrelink social worker or other expert service providers.

'Safety concern' flag

4.56 The ALRC recommends that DHS should consider developing and implementing a 'safety concern flag' to be placed on a customer's file. Subject to the informed consent of the customer, and with appropriate privacy safeguards, the 'flag' should be subject to information sharing arrangements between DHS and other agencies.

Parallels with vulnerability and sensitive issues indicators

4.57 In the social security system, a 'vulnerability indicator' may be placed on a customer's record—accessible by Centrelink, DEEWR and a job seeker's job services provider—in certain circumstances. The 'vulnerability indicator' is used to identify those with psychiatric problems or mental illness, drug or alcohol dependence, homelessness and recent traumatic relationship breakdown (including relocation as a result of a recent family violence situation). For example, Centrelink customer service advisers are required to consider at their initial engagement with a job seeker, and at subsequent engagements, whether a 'vulnerability indicator' should be placed on the customer's record.⁷⁰ The indicator alerts job service providers and Centrelink that a job seeker may have difficulty meeting their

70 J Disney, A Buduls and P Grant, *Impacts of the new Job Seeker Compliance Framework: Report of the Independent Review* (2010).

requirements for receiving social security payments or entitlements (such as activity test or participation requirements) due to vulnerability and thus ensures that the vulnerabilities are taken into account when setting participation requirements for the job seeker and responding to failures to comply.

4.58 A similar mechanism exists in the child support system. The CSA's *Family Violence—Common Module* states that when a customer advises that there is a risk of family violence, regardless of whether there is an Apprehended Violence Order (AVO) or Domestic Violence Order (DVO) in place, a 'sensitive issue indicator' should be placed on the customer's file. The Module expressly states that the customer is not to be advised of the existence of the 'sensitive issue indicator' and that it is an internal customer management tool only.⁷¹ Conversations regarding family violence are also required to be documented in the CSA database.⁷²

Should a 'safety concern flag' be developed and implemented?

4.59 In the Discussion Paper, the ALRC proposed that when family violence is identified through the 'screening' process or otherwise, a 'safety concern flag' should be placed on the customer's file.⁷³ The ALRC considered that this reduced the need for victims of family violence to have to repeat their story to different agencies.⁷⁴ If such a flag is shared between agencies, it may give an indication that a person is eligible for different entitlements and exemptions, which in turn may ensure an issues management response that enhances his or her safety.

4.60 While stakeholders supported the principle of the 'safety concern flag',⁷⁵ there was consensus that a number of issues would need to be addressed prior to its implementation, to ensure the 'privacy, safety and autonomy'⁷⁶ of the customer at all times. Particular concerns were raised about how to:

- keep the 'safety concern flag' current, to ensure that the flag is not used for some collateral purpose;⁷⁷
- keep customers informed of actions arising out of having a 'safety flag' on their file;⁷⁸ and

71 DHS, *Common Module—Family Violence*, 7 June 2011.

72 Ibid.

73 Australian Law Reform Commission, *Family Violence and Commonwealth Laws*, Discussion Paper 76 (2011), Proposal 4–11.

74 Ibid, 142.

75 National Legal Aid, *Submission CFV 164*; National Welfare Rights Network, *Submission CFV 150*; Indigenous Law Centre, *Submission CFV 144*; ADFVC, *Submission CFV 102*; AASW (Qld) and WRC Inc (Qld), *Submission CFV 140*; Women's Information and Referral Exchange, *Submission CFV 94*; WEAVE, *Submission CFV 84*;

76 AASW (Qld) and WRC Inc (Qld), *Submission CFV 140*.

77 DHS, *Submission CFV 155*.

78 AASW (Qld) and WRC Inc (Qld), *Submission CFV 140*.

- ensure that existing infrastructure is sufficient to host a ‘safety concern flag’ without allowing unintended access by various government departments and agencies.⁷⁹

4.61 DHS submitted that its experience with the sensitive issues and vulnerability indicators suggests that, while ‘some benefits can manifest in terms of reduced repetition for the customer’, such benefits need to be balanced with ‘the costs of system development and associated staff training and processes’ to ensure that a customer’s record is current and that the existence of a flag is appropriate.⁸⁰ It also considered that Centrelink experience with similar indicators suggest that ‘the flag itself is not the answer but should be suggestive that other supports may be in place or offered’.⁸¹

4.62 The ALRC does not recommend implementation of a ‘safety concern flag’ until the concerns raised above have been addressed. In particular, DHS integration is in its very early stages and introducing a new ‘safety concern flag’ at this point in time may require significant resources towards ‘system development and associated staff training’.⁸²

4.63 The ALRC therefore recommends that DHS should consider developing and implementing a ‘safety concern flag’ to be placed on a customer’s file when family violence-related safety concerns are identified. The ALRC notes that DHS experience with the ‘sensitive issue’ and ‘vulnerability’ indicators will be useful in developing and implementing any ‘safety concern flag’.

Privacy and information sharing

4.64 The *Privacy Act 1988* (Cth) regulates the handling of personal information by the Australian Government—to which 11 Information Privacy Principles apply.⁸³ In line with the Information Privacy Principles, the DHS has stated that it will ‘not use customer information collected for the purposes of one program for another program, unless the use of information in this way is authorised by law and already occurs or, alternatively, the customer gives informed consent to the additional use’.⁸⁴

4.65 The Office of the Information and Privacy Commissioner also submitted that a privacy impact statement should be undertaken as part of developing protocols for the sharing of a ‘safety concern’ flag to ensure that arrangements are consistent with the *Privacy Act* and Information Sharing Principles. DHS has stated that it has

79 DHS, *Submission CFV 155*.

80 *Ibid.*

81 *Ibid.*

82 *Ibid.*

83 However, in June 2010, the Government released an exposure draft of legislation intended to unify the Information Privacy Principles and the National Privacy Principles.

84 DHS, *Submission to the Senate Community Affairs Committee for the Inquiry of the Human Services Legislation Amendment Bill 2010* (2011).

conducted preliminary Privacy Impact Assessments and, to ensure that information is appropriately managed and shared, a consent model is being put in place to enable ‘the sharing of customer information across programs’ and emphasise ‘adequate levels of notice, control and choice for individuals’.⁸⁵

4.66 DHS therefore submitted that the easiest way of disclosing the existence of any ‘safety concern flag’ to other agencies is via informed customer consent:

Which means the customer will need to be advised of the ‘safety concern flag’, what it means, and who it could potentially be disclosed to. The customer may also want some assurances about what another agency might use this information for—for example State Police Services. It is also likely to lead to other agencies wanting further information.⁸⁶

4.67 This view was also adopted by stakeholders.⁸⁷ National Legal Aid expressed a view that consent should ‘ideally be obtained once and early on, so that the customer need not be engaged in unnecessary interactions’.⁸⁸ The Office of the Information and Privacy Commissioner stressed that individuals should be given the ‘opportunity to decide whether or not their personal information will be shared’, and that

improving communication with customers as part of seeking informed consent may minimise the risk of misunderstandings about information sharing, which can lead to privacy complaints. It may also promote community trust and confidence in the handling of information by Australian Government agencies.⁸⁹

4.68 The National Welfare Rights Network submitted that DHS should develop (in consultation with stakeholders and clients) information/scripts explaining issues such as ‘safety concern flags’ and ‘informed consent’ to ensure that individuals and groups clearly understand processes and their rights with respect to information sharing, consent and revocation thereof.⁹⁰ The NWRN also suggested that a customer should be able to provide consent to disclosure ‘that is limited to particular agencies or limited to a particular time’.⁹¹

4.69 The ALRC considers that a model of informed consent would be the most appropriate way to share information about the existence of a ‘safety concern flag’ across agencies. The ‘safety concern flag’ could be considered in light of the preliminary privacy impact statement and DHS’ current procedures around consent for information sharing generally. The ALRC also stresses that, in implementing

85 Ibid.

86 DHS, *Submission CFV 155*.

87 National Legal Aid, *Submission CFV 164*; FaHCSIA, *Submission CFV 162*; National Welfare Rights Network, *Submission CFV 150*; AASW (Qld) and WRC Inc (Qld), *Submission CFV 140*; Aboriginal & Torres Strait Islander Women’s Legal & Advocacy Service, *Submission CFV 103*; ADFVC, *Submission CFV 102*; Women’s Information and Referral Exchange, *Submission CFV 93*; WEAVE, *Submission CFV 84*.

88 National Legal Aid, *Submission CFV 164*.

89 Office of the Australian Information Commissioner, *Submission CFV 142*.

90 National Welfare Rights Network, *Submission CFV 150*.

91 Ibid.

any flag, DHS will need to ensure that its customers know about: the existence of a safety concern flag; the purpose for which the flag may be disclosed to other agencies; and how the customer can have the flag removed from their file.

4.70 The ALRC considers that, if a ‘safety concern flag’ is implemented, information about its existence could be given to customers to promote disclosure of family violence in a wide variety of formats, as recommended in Recommendation 4–1.

Recommendation 4–4 The Department of Human Services should consider developing and implementing a ‘safety concern flag’:

- (a) to be placed on a customer’s file when family violence-related safety concerns are identified;
- (b) to be shared between relevant Department of Human Services programs and other relevant departments or agencies, with a customer’s informed consent; and
- (c) with privacy safeguards.

Education and training

4.71 There was general consensus among stakeholders that any recommendation about ‘screening’ must be underpinned by appropriate, and targeted, education and training of staff.⁹² DHS acknowledged that ‘an unskilled response to disclosures carries the risk of further traumatisation to the sufferer’.⁹³ Similarly, the AASW (Qld) and the Welfare Rights Centre cautioned against ‘secondary victimisation’ arising from inappropriate responses and argued that such risk can be minimised ‘through training, monitoring of responses, timely referral both internal and external to appropriately qualified people, and evaluation of the family violence strategy that seeks feedback from victims who have been clients’.⁹⁴

4.72 Gippsland Community Legal Service submitted that family violence risk assessment and ‘screening’ training should ‘be compulsory for all Centrelink and Child Support Agency staff to ensure best practice responses to family violence across the organisations’.⁹⁵

92 National Legal Aid, *Submission CFV 164*; DHS, *Submission CFV 155*; National Welfare Rights Network, *Submission CFV 150*; AASW (Qld) and WRC Inc (Qld), *Submission CFV 140*; Gippsland Community Legal Service, *Submission CFV 114*; White Ribbon, *Submission CFV 112*; Aboriginal & Torres Strait Islander Women’s Legal & Advocacy Service, *Submission CFV 103*; Women’s Information and Referral Exchange, *Submission CFV 94*; WEAVE, *Submission CFV 84*.

93 DHS, *Submission CFV 155*.

94 AASW (Qld) and WRC Inc (Qld), *Submission CFV 140*.

95 Gippsland Community Legal Service, *Submission CFV 114*.

4.73 DHS preferred a model that would supplement current ‘training procedures and assist staff undertaking a range of duties at all levels’.⁹⁶ Given the wide range of staffing roles and levels within the DHS portfolio, it was suggested that a strategic approach was required, staged around four categories of need:

- 1) General understanding and awareness of family and domestic violence and the ability to identify risks and subsequent responses and referral approaches (targeted at customer service officers and specialised service delivery staff);
- 2) A deeper understanding of family and domestic violence and the ability to identify risk and subsequent responses and referral approaches (targeted at customer service officers and specialised service delivery staff, such as Case Coordination);
- 3) Refresher training for social workers and professional staff to maintain current knowledge and awareness of family and domestic violence issues; and
- 4) General understanding of family and domestic violence issues together with an appreciation of the role and capacity of the employer to support employees (targeted at team leaders and managers).⁹⁷

4.74 DHS also indicated that it had research contemporary training content for family and domestic violence, and that it will

use the findings to enhance and expand existing family and domestic violence training resources for staff with respect to their various roles and requirements. For example, there are a number of positions within the Department that are not primarily customer facing but have a key role in raising awareness of issues and services in the community, such as Multicultural Services Officers.⁹⁸

4.75 Other stakeholders noted a wide range of matters that education and training could cover for DHS service staff, including in relation to: definitions; mandatory reporting requirements; ethics and informed consent; referral pathways; family violence in cultural contexts; identifying and managing conflicts of interest; managing disclosures; why victims choose to leave or to seek help; and helpful and unhelpful responses to disclosures.⁹⁹

4.76 DHS suggested that it had, to a certain extent, already considered such issues. For example, training currently finalised for delivery to the Child Support Program ‘includes risk indicators and appropriate responses options ... aimed at increasing staff awareness of family and domestic violence and enhancing responsiveness where relevant customer circumstances arise’.¹⁰⁰

4.77 National Legal Aid submitted that the recently released national family violence training package, *Avert Family Violence: Collaborative Responses in the Family Law System*, might be an appropriate component, ‘particularly given that it

96 DHS, *Submission CFV 155*.

97 *Ibid.*

98 *Ibid.*

99 Indigenous Law Centre, *Submission CFV 144*; AASW (Qld) and WRC Inc (Qld), *Submission CFV 140*.

100 DHS, *Submission CFV 155*.

will be used by other government and non-government family law service providers'. It was argued that the use of shared training resources will facilitate shared understanding and language for communication around family violence.¹⁰¹

4.78 The ALRC considers that part of the package may be of particular use, especially the modules on 'risk assessment', 'responding to cultural diversity' and 'dimensions, dynamics and impact of family violence'.¹⁰²

4.79 DHS acknowledged that there are sections of the community who are vulnerable to family violence due to power imbalances based on 'Indigenous status, culture, sexuality, disability or age'.¹⁰³ DHS agreed that an understanding of the nature, features and dynamics of family violence is crucial for customer service staff and that 'this information should be included in policy documents, procedures and training materials'.¹⁰⁴ In relation to DHS Indigenous Specialist Officers (ISOs), it was noted that

DHS ISOs currently receive appropriate training and support to ensure that their knowledge of family violence issues is relevant within the context of Aboriginal and Torres Strait Islander communities and peoples. DHS ISOs are supported with their knowledge of DHS payments, programs and services together with their knowledge of Aboriginal and Torres Strait Islander service delivery and policy priority areas.¹⁰⁵

4.80 It was further suggested that the training will be supported by Centrelink social workers providing their expertise, and 'will reflect the importance of referral responsibilities and options in relation to identified trigger behaviours or self identified customers at risk'.¹⁰⁶

Targeted and strategic approach

4.81 For a major service delivery agency such as DHS, training and education of a large workforce in relation to family violence 'must be done within existing resources' and 'balanced against the need of other vulnerable groups'.¹⁰⁷ The ALRC welcomes many of the initiatives taken by DHS around training and education as part of the integration strategy, and notes that the ALRC's recommendations are intended to complement DHS' ongoing initiatives.

4.82 A nuanced approach to issues management will require DHS staff to be able to advise customers about how family violence is relevant to their circumstances, and make judgements as to the appropriate response in each case, after a family violence-related safety concerns are disclosed. The ALRC considers—as suggested by DHS—that a deeper understanding of family violence and the ability to identify

101 National Legal Aid, *Submission CFV 164*.

102 See Avert Family Violence Website, <www.avertfamilyviolence.com.au/> accessed 8 November 2011.

103 DHS, *Submission CFV 155*.

104 *Ibid.*

105 *Ibid.*

106 *Ibid.*

107 *Ibid.*

risk and subsequent responses and referral approaches are required of customer service and specialised service delivery staff (including those working in Case Coordination). If the ALRC's recommendations in this chapter are implemented, training to this cohort of DHS staff should be given priority.

Recommendation 4-5 The Department of Human Services should ensure that staff providing customer services, including Centrelink social workers, Indigenous Service Officers, and Multicultural Service Officers receive consistent, regular and targeted training about:

- (a) advising customers on the impact of family violence on their case or claim;
- (b) responding to disclosures of family violence-related safety concerns, including by referrals to Centrelink social workers and other expert service providers; and
- (c) the nature, features and dynamics of family violence including the particular impact of family violence on: Indigenous peoples; those from a culturally and linguistically diverse background; those from lesbian, gay, bisexual, trans and intersex communities; older persons; and people with disability.

