



Jenny Mikakos MP

COPY

Minister for Families and Children  
Minister for Early Childhood Education  
Minister for Youth Affairs

GPO Box 4057  
Melbourne Victoria 3001  
Telephone +61 3 9096 0301  
[www.dhhs.vic.gov.au](http://www.dhhs.vic.gov.au)  
[www.education.vic.gov.au](http://www.education.vic.gov.au)  
DX: 210081  
e4895546

HHSD/18/55794

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

Dear Ms Wynn

I refer to the Australian Law Reform Commission's (ALRC's) Review of the Family Law System issues paper. As the Minister for Families and Children, I am dedicated to the wellbeing and protection of families and children in Victoria.

Victoria has been at the forefront of family violence policy development and reform in Australia for the past 15 years. Recognising the prevalence and severity of family violence, the Andrews Labor Government launched Australia's first Royal Commission into Family Violence (Royal Commission) in February 2015.

The Royal Commission subsequently delivered 227 recommendations for significant reform across health, justice and social service to ensure a coordinated, integrated and effective response to family violence. The Andrews Labor Government has committed to implementing all 227 recommendations, supported by the largest investment by any state, territory or federal government to address and prevent family violence.

Given family violence can occur in a variety of contexts and that it is generally underpinned by a pattern of coercion, control, and domination, the Royal Commission identified the great power in hearing the lived experience of victim survivors. The voices and stories of victims are a powerful and compelling way to inform policy development and reform.

For the first time in Victoria, victim survivors have a formal influencing role in how the family violence reforms will be developed and implemented through the Victim Survivors' Advisory Council (VSAC). VSAC was created to capture the voices and views of victim survivors in the service design and reform of the family violence system. VSAC includes representatives from a variety of age groups, cultural and socio-economic backgrounds who share the traumatic lived experience of family violence.

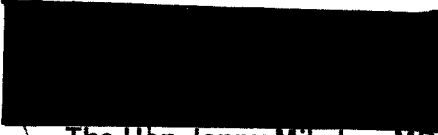
Chaired by the 2015 Australian of the Year Rosie Batty, VSAC brings the strength, resilience and lived experiences of victims into Victoria's reforms. It advises the Victorian Government on the various experiences of family violence and the contemporary Victorian service system from the victim's perspective.

On 16 May 2018, VSAC members met with Professor Helen Rhoades and Dr Rae Kaspiew from the ALRC to discuss the Review of the Family Law System. It provided a valuable forum for victim survivors to share their stories and experiences of the family law system directly to the ALRC.

At the meeting, I understand VSAC members discussed the barriers they face in the family law courts. These included issues of physical safety, access to legal assistance, and the need to foster a better understanding of family violence dynamics amongst court staff and professionals (a summary of this meeting is **enclosed**).

I thank the ALRC for taking the opportunity to meet with VSAC and encourage the ALRC to continue to hear and consider the voices of victim survivors as the Review of the Family Law System progresses.

Yours sincerely

  
**The Hon Jenny Mikakos MP**  
Minister for Families and Children  
Minister for Early Childhood Education  
Minister for Youth Affairs

27/7/2018

Encl: summary of the meeting between ALRC and VSAC.

## Background

On Wednesday 16 May 2018, Family Safety Victoria (FSV) hosted a meeting between the Australian Law Reform Commission (ALRC) and the Victims Survivors' Advisory Council (VSAC) for VSAC to provide comments to the ALRC on the issues paper on the Review of the Family Law System (Issues Paper).

### *Attendees*

- ALRC - Prof Helen Rhoades and Dr Rae Kaspiew
- VSAC members
- Minister Hutchin's Office - Tanya Corrie
- FSV - Kym Arthur, Stacey Miller, Ting Yuan.

## Key issues

The discussion focused on the victim experience with the family law system and the power imbalance between the victim and perpetrator through the system.

### *Anomaly between state and federal jurisdictions*

There is a disparity between the state and federal courts on family violence matters, which is confusing and inconsistent for victims and children.

For one VSAC member, while she was able to protect her son via the state courts through a family violence intervention order, at the family law court, the judge commented that her experience and her son's experience and witness to the family violence was historic and irrelevant and this placed no bearing on the future of her son's well-being and his relationship with his father. Consequently, the family law court granted the perpetrator access to her son once a month unsupervised. Her son does not want to see his father and is confused by the different decision making at two levels of the court system.

Another VSAC member agreed with this anomaly and commented that the family law court does not take family violence matters seriously and that the two levels of jurisdictions are not in communication with each other, which leads to different approaches being taken.

VSAC considers the state jurisdictions are much more progressive at reform but the federal system is not receptive. One VSAC member would like a royal commission on the family law system.

### *Role of lawyers*

There is a lack of understanding of family violence issues and dynamics by lawyers. One VSAC member was advised by her solicitor "if you don't do what I'm telling you to do, you will lose your kids".

Lawyers not only lack an understanding, sometimes they enable perpetrators to continue the harassment and intimidation of victim survivors through the court processes. This results in women becoming afraid of the system and giving into the demands of perpetrators/lawyers in order to stop the abuse and harassment. One VSAC member overheard lawyers advising their clients "we sit here because then she will have to walk past us and then she will break".

One VSAC member identified the need for lawyers to be trained on family violence issues so they can better support victims, and understand the power imbalance between victims and perpetrators and that perpetrators are still trying to use their power to intimidate victims through the entire court process.

In addition, there is a lack of access to legal aid in family law matters. In many cases, the perpetrator accesses the legal aid first and victims are being told to sell their house so they can hire a lawyer.

### *Family law reports and reunification programs*

Family law reports and reunification programs are not designed to assist the participants. Victims are further traumatised by the process and there are instances where reports contain factually incorrect information, which report writers do not admit to and refuses to fix.

The professionals conducting the family law reports and reunification programs are not qualified in family violence and do not understand the fear and trauma experienced by victims. For example, victims are forced to attend appointments even when the perpetrator is in the waiting room.

One VSAC member's ex-husband had a psychiatric history and his materials were being subpoenaed. As a result, the ex-husband also demanded that she get a psychiatric report. Her lawyer told her to do one just to appear cooperative, which resulted in a \$6,000 fee. The report made generalised conclusions which inferred victim blaming.

### *Deficient understanding of family violence*

The family law system is underpinned by a poor conceptualisation of male violence and the way men use power for manipulation, control and coercion. There needs to be a systemic change, especially among judges.

Too often, the systemic flaws result in victims not being believed. One VSAC member described the courts as 'gas lighting' victims.

One VSAC member said that the inconsistent decision-making made an appearance in court a lottery, and that the result depended on which judge you had on the day. She went on to say that you can get completely different results on cases with identical facts. This creates a mistrust of the family law system.

## Final remarks

### *VSAC*

- The family law system works in favour of the perpetrator, they can blackmail victims and manipulate the system. It is a constant battle for victims as the onus of proof is on the victims.
- Members commented they do not feel physically safe in the courts, they are petrified of the family law system and would never want to go back there.
- Victim survivors will never financially and psychologically recover from a family law court process. Victims just want to be heard.

### *ALRC*

- The ALRC thanked VSAC for their contribution. Professor Rhoades acknowledged the importance of hearing victim survivors' stories and experience firsthand.