



## What is this information sheet about?

This information sheet discusses the Australian Law Reform Commission (ALRC) Commonwealth Family Violence Inquiry and briefly outlines some of the ALRC's key recommendations aimed at better protecting the safety of people with disability who are experiencing family violence. Further detail about these recommendations can be found in the Final Report, *Family Violence and Commonwealth Laws—Improving Legal Frameworks*, ALRC Report 117 (2011) which is available for free download at [www.alrc.gov.au](http://www.alrc.gov.au).

The ALRC uses the term 'people with disability' to reflect each person's value, individuality, dignity and capabilities. 'People with disability' is used rather than 'people with a disability', acknowledging that a person may have more than one disability.

## What was the Inquiry about?

The Commonwealth Attorney-General asked the ALRC to identify the improvements that could be made to Commonwealth laws to better protect the safety of those experiencing family violence. Safety means both safety from harm and also financial security and independence. Financial security through things such as social security and child support payments and paid employment can help a person to leave a violent relationship.

The ALRC was asked to look specifically at social security law, child support and family assistance law, immigration law, employment law, superannuation law and privacy provisions and made 102 recommendations for reform.

## How is family violence experienced by people with disability?

People with disability experience family violence in different ways, often at higher rates and higher frequencies, for longer periods of time and at the hands of a greater number of people, than people without disability. Types of family violence experienced by people with disability may include:

- sexual or physical assault;
- stealing and financial exploitation including misappropriation of social security payments and other benefits and concessions;
- neglect and deprivation of things such as shelter, nutrition and essential medical treatment;
- specific types of abuse related to their disability such as withholding equipment, food and medication; and
- forced sterilisation and abortion.



## What did the ALRC recommend?

### A common definition of family violence

To ensure consistency in the treatment of family violence across Commonwealth laws, the ALRC recommended that a common definition of family violence be inserted into relevant Commonwealth laws and other guidelines and material. The definition of family violence should include:

- conduct that is violent, threatening, coercive and controlling, or intended to cause a family member to be fearful; and
- a non-exhaustive list of examples of physical and non-physical conduct.

Other illustrative examples of family violence could be tailored to each legal framework to show the particular risks that people with disability might face, in that context.

Recommendations 3-1 to 3-4

### Encouraging disclosure

The ALRC recommended that service agencies such as Centrelink and the Child Support Agency, proactively promote the disclosure of family violence with appropriate privacy safeguards. The ALRC discussed that a person with disability may often be accompanied by another person or have a nominee who acts on their behalf which can act as a barrier to them disclosing family violence and that agency staff need to be trained to recognise when this might be occurring and know how to deal with it.

Recommendations 4-1 to 4-5

### Improving awareness

The ALRC made a number of overarching recommendations about the need for consistent, regular and targeted education and training, including in relation to the nature, features and dynamics of family violence and its particular impact on people with disability. This information should be included in relevant policy guides—the *Child Support Guide*, the *Family Assistance Guide*, and the *Guide to Social Security*—to ensure that the circumstances of people with disability who are experiencing family violence are taken into account when making decisions about things such as child support or social security payments.

Recommendations 4-5, 5-1, 8-7, 11-1 and 14-1



## ‘Separation under one roof’

A person may be eligible for a higher rate of their social security payment if they are determined to be ‘separated under one roof’. The ALRC recommended that how family violence may affect a victim’s decision to stay or leave a violent relationship should be taken into account when making decisions about whether they are ‘separated under one roof’. This enables a person with disability experiencing family violence to be treated as ‘separated under one roof’ where they cannot leave the home due to a lack of refuge accommodation, modified homes and dependency on a partner.

### *Example:*

One woman with a disability who had made a claim was deemed ineligible. Centrelink found that her dependency on her partner for physical and occasional financial assistance meant they were still in a relationship. She expressed feeling completely trapped in the relationship, wanting to leave but unable to support herself financially or manage on her own, given her disability.

R Braaf and I Barrett Meyering, *Seeking Security: Promoting Women’s Economic Wellbeing Following Domestic Violence* (2011), prepared for the Australian Domestic and Family Violence Clearinghouse.

Chapter 6 and Recommendations 6–1 to 6–3

## Disability Support Pension residence requirements

The 10 year qualifying residence requirement for Disability Support Pension may mean that migrants with disability cannot access the payment. If they can’t access the payment, they may not be able to leave the violent relationship. To change these residence requirements may create an inequity in that a similar provision would not exist for other vulnerable migrants with disability. So the ALRC noted that this is an area of widespread concern and considered it appropriate that such residence periods be reviewed as a whole.

See Chapter 7

## Crisis Payment

The ALRC recommended that the requirement for the victim or the person using family violence to leave the home be removed as an eligibility requirement for Crisis Payment for family violence. This addresses the concern that a person with disability may lose their care support if the person using family violence is removed from the home or where the person with disability is unable to leave the home due to modifications that have been made to the home.

Recommendation 9–2



## Disability Employment Services

The ALRC recommended Disability Employment Services should include a requirement that providers consider the existence of family violence when tailoring service responses to individual jobseeker needs. This aims to ensure that the way in which family violence is experienced by people with disability is taken into account by Disability Employment Services providers.

Recommendation 8–6

## Family violence leave

The ALRC recommended that the Australian Government should consider whether there should be provision for family violence leave and the right to request flexible work arrangements in the context of enterprise agreements and under the National Employment Standards.

The ALRC noted that any family violence leave or flexible working arrangements should be available to an employee who is experiencing family violence, or who is required to provide care or support to another person who is experiencing family violence. The ALRC suggested that any definition of ‘another person’ should recognise the living arrangements of people with disability. This recognises the impact family violence often has, not only on the victims, but also on friends, relatives and other household members, including children.

See Chapter 17 and Recommendations 16–4 and 17–2

## Further resources

Links to further resources can be found on our website at [www.alrc.gov.au/CFV-disability/#FR](http://www.alrc.gov.au/CFV-disability/#FR).

The complete Final Report and a short Report Summary are available to purchase, view or download free from the ALRC’s website [www.alrc.gov.au](http://www.alrc.gov.au). The ALRC has prepared other ‘community information sheets’ that provide a brief overview of recommendations that may be of particular interest to Indigenous peoples, those from a culturally and linguistically diverse background and those from lesbian, gay, bisexual, trans or intersex communities.