Table of Contents

House Standing Committee on Social Policy and Legal Affairs

Family violence orders

Attorney-General's Department

Hearing date: 11 October 2024

Hansard page: 9

Susan Templeman asked the following question:

CHAIR: Can I ask now about the personal protection injunction orders under the Family Law Act. How does a person apply for that order? Is the application made to the Federal Circuit and Family Court of Australia? Is that the process?
Mrs Byng: That is correct; the process would be through an application to the FCFCOA. It might be better to direct technical questions about the application process to the FCFCOA. There would likely be some form of application fee, and you would apply for it, ordinarily or commonly, as part of your broader family law application process.

The response to the question is as follows:

The federal family law courts can make civilly enforceable Personal Protection Injunctions (PPIs) under section 68B of the *Family Law Act 1975 (Cth)* (the Act) in relation to parenting matters, and section 114 of the Act in relation to property matters involving parties to a marriage.

A party applies for a PPI as an order sought in their broader application or response. A party may also seek to make an oral application to the Court.

The Court can also make a PPI on its own initiative as part of making orders under the Act during the conduct of proceedings.

House Standing Committee on Social Policy and Legal Affairs

Family violence orders

Attorney-General's Department

Hearing date: 11 October 2024

Hansard page: 10

Kate Chaney asked the following question:

Ms CHANEY: Thank you very much. Is WA the only state in which police don't apply for family violence orders in an own motion? Do you know?
Mrs Byng: I would have to take that on notice. There can be quite bespoke differences when you look into it. For example, there are certain circumstances where someone has lost capacity; that allows the police in a particular jurisdiction to make an own-motion order. In other jurisdictions, it can be at any time or in any capacity. I would need to double-check WA's legislation to give you a correct answer.
Ms CHANEY: My understanding is it's possible in WA; it's just not done. I would appreciate on notice an understanding if it's only in WA where it is not common practice for police to apply for a family violence order on an own motion. There's what the law says and then there's what actually happens, and it's what actually happens that I'm interested in—on notice, if possible.
Mrs Byng: I would have to ask my Department of Justice colleagues that question as to what happens in practice but also what's legislatively available in that jurisdiction. I just want to clarify something I was talking about earlier—when the chair asked how someone might apply for a PPI, and we talked about it being issued by the FCFCOA. The court in and of itself can make injunctions as part of making its orders; it wouldn't have to necessarily be because of a precise application by the applicant. Given that is the FCFCOA's domain, we will clarify that process as well, together with the question about WA. I am aware the ACT also has limitations about when police can apply for an order. In the example of the ACT, it would be when they're making an application. I think there's a difference in the ACT. I'll come back to you on that as well.

The response to the question is as follows:

Under Australia's federal system of government, states and territories are responsible for the majority of laws related to family violence, including the making of domestic and family violence orders (FVOs) and criminal offences. Each jurisdiction manages its own criminal justice system, including criminal laws, policing, courts and corrections. Within these systems, law enforcement agencies have responsibility for investigating and ensuring the safety of the community, including the issuing of domestic violence orders.

The Department of Justice in Western Australia has advised that Western Australia's *Restraining Orders Act 1997* provides that police officers may make police orders if they reasonably believe that there was, is or will be family violence (section 30A). However, a police officer may only make a police order in Western Australia if the case meets the criteria set out in section 20(1)(a) or (b) of the Act. These sections outline that the police officer must be satisfied that it would not be practical for an application for a Family Violence Restraining Order (FVRO) to be made in person, or there is some other factor that justifies making a

FVRO as a matter of urgency and without requiring the applicant to appear in person before a court.

The department understands that police officers are able to apply for FVOs on an own motion basis in all jurisdictions, however, some jurisdictions outline circumstances in which police must make an application for an FVO on behalf of a person to be protected. For example, the department understands that New South Wales, Queensland and the Northern Territory's legislative frameworks provide that police must apply for an FVO, or issue a police order to protect a person from family violence, if certain conditions are met.

House Standing Committee on Social Policy and Legal Affairs

Family violence orders

Attorney-General's Department

Hearing date: 11 October 2024

Hansard page: 10-11

Kate Chaney asked the following question:

Mrs Byng: That was a four-year measure; I'm just checking the context. That was 2022-23 through to 2025-26; that was the $4.1 million measure. Looking at that timeframe, we're still in the development phase. It's quite an extensive program of work on foot. We have undertaken intensive scoping across all jurisdictions to understand what the existing footprint of training is, because they do FDSV-type training in each jurisdiction. We've been working with the state and territory police, including under the auspices of ANZPAA as well. We have got a lived experience consultation that's active at the moment. We've engaged a consultation specialist to undertake community focused consultations with people with lived experience of FDSV that have sought assistance from or have had interactions with the police. All of that is designed to inform the eventual rollout of the training. We have not rolled out that training yet.
Ms CHANEY: So no training has been rolled out yet?
Mrs Byng: No training in relation to this measure has been rolled out. That does not mean that individual states and territories aren't rolling out FDSV training actively at any moment.
Ms CHANEY: I understand. How much of the money budgeted in that year has been spent?
Mrs Byng: I will need to take that on notice.
Ms CHANEY: That'd be good. And I'd love to know the extent and scope. How many police people will actually be trained as part of that commitment? It's certainly something that I hear from constituents here—that there's a huge need for greater training. It feels very urgent to my community that, when women go to the police, fearing for their own safety, they are taken seriously and not told, 'What do you want to do—deprive him of his liberty?' I hear all these dreadful stories about the police response, so I'm really interested to hear some more detail about the extent and scope of that training, and when that might become a reality.

The response to the question is as follows:

The entire funding allocation, $305,000, for the 2022-23 financial year was spent.

The final and specific content of the training is still to be confirmed. At this time, it is anticipated that the training will focus on a number of topics that are key to enhancing the effectiveness of police responses to family, domestic and sexual violence. For example identifying the primary aggressor to reduce instances of misidentification, coercive control, culturally safe policing responses and trauma informed models of response to minimise re-traumatisation amongst other topics.

The training will be piloted in 2025 before it is rolled out nationally and made available to police in all jurisdictions. At this time, the department is unable to advise how many police will be trained under this training measure.

House Standing Committee on Social Policy and Legal Affairs

Family violence orders

Attorney-General's Department

Hearing date: 11 October 2024

Hansard page: 12

Susan Templeman asked the following question:

CHAIR: Do we have data on how many personal protection injunctions are made under the Family Law Act?
Mrs Byng: I could ask the FCFCOA for that information.
CHAIR: In terms of any reporting around how many are breached when there is then action, would you have any data on that?
Mrs Byng: No, I wouldn't have any data on that. Please note that, if someone was to make an application to the FCFCOA around their PPI being made, there are orders that the court could make in relation to that that are different from what the police might do.

The response to the question is as follows:

The Federal Circuit and Family Court of Australia has advised that there are tens of thousands of orders made in family law proceedings each year in the Courts. Where a personal protection injunction is made, this will be one of many orders made during the consideration of the substantive issues before the Courts. The Courts have advised that they do not have data which separately identifies the number of personal protection injunctions sought or the number of personal protection injunction orders made.

House Standing Committee on Social Policy and Legal Affairs

Family violence orders

Attorney-General's Department

Hearing date: 11 October 2024

Hansard page: 14

Susan Templeman asked the following question:

CHAIR: I might just ask one question and then I'll go back to Ms Chaney. The Law Council of Australia has suggested a separate court be established in the FCFCOA to deal with injunctions within the court—a separate court list. So would a separate registrar-led court list be able to deal with applications and breaches of personal protection injunctions in a more timely way or better way, do you think?
Mrs Byng: I don't think that's for me to say but I would say they do have specialist lists that exist already to deal with, say, child sexual abuse. I think that's the Magellan list. They've got the Evatt list, which would triage family domestic violence matters. They have urgency lists. There's the specialist Indigenous list as well. So there are different lists and triaging in place in the court which do allow for things to be heard more urgently. In the context of PPIs, I would say, though, we would generally suggest that, for someone in need of urgent protection, the state and territory courts remain the appropriate fora for that. Your ability or capacity to get an urgent PPI in place still would require some form of family law court proceeding whereas you'd be able to secure an FVO quite quickly. Or the police, indeed, in a number of jurisdictions could issue one on own motion or apply on behalf of a party. For example, if they turn up at a house and there's an incident, the ordinary course to get something urgently in place would be through those state and territory processes.
CHAIR: Are you aware of the sorts of resources that would be required to set up a new registrar led list in the in the existing system?
Mrs Byng: Again, that's something we would need to ask the FCFCOA. Obviously, they do have various triage lists in place. We've got the Lighthouse program as well, which is a risk screening triage program for family and domestic violence matters. So they do have things in existence, and we have some information about how much, what the resourcing associated with those kind of programs like the Lighthouse program is. That could give you a bit of a sense. But yes, it is resource intensive to do those things. I would also note that you actually can't seek a PPI if you've got an existing or pending FVO application in place too.

The response to the question is as follows:

The Federal Circuit and Family Court of Australia (FCFCOA) has advised that any proposal to create a separate court list to deal with personal protection injunctions (PPIs), including the holding of urgent hearings to deal with PPIs, would have significant resourcing implications.

The FCFCOA further notes the proposal would also need to be considered in the context of the court's case management processes, for example the practicalities of service and notice requirements on a respondent for urgent listings. A separate court list for PPIs also has the potential to require victims to give evidence at two separate hearings with additional legal costs.

House Standing Committee on Social Policy and Legal Affairs

Family violence orders

Attorney-General's Department

Hearing date: 11 October 2024

Hansard page: 16-17

Susan Templeman asked the following question:

Mrs Byng: Just to make sure, are you familiar with the National Strategic Framework for Information Sharing? I think we could give you some information on that before—
CHAIR: Would you like to put that—we've had the benefit of hearing from lots of people, but it is very good to get on the record the evidence from your knowledge of it.
Mrs Byng: It's just to highlight that the framework provides for enhanced information sharing between state and territory agencies on police firearms and child protection up to the federal family law courts. The bill commenced on 6 May 2024 this year. It ensures the court can get accurate and up-to-date information earlier and throughout the proceedings. Two new orders for information sharing have broadened the scope of information able to be sought. We've got firearm agencies that can now share information for the first time, which is really important. It also introduces some safeguards regarding that. Is there anything you'd add, Claire?
Ms Crawford: Yes. There was an evaluation of the co-location pilot—as it was back then—conducted, and it's available on the Attorney-General's website, but we can share that with you if you'd be interested.
CHAIR: Yes. That would be good to have.
Ms Crawford: It found that having officials co-located within the courts or nearby the courts made it easier for court staff to come up to police officials or co-located officials and ask them general questions about information they might have on hand or processes within their agencies and vice versa. It was about that cultural piece of understanding the different systems between each jurisdiction, which made a huge difference. Also, with the co-location, it was being able to quickly respond to the court's responses and orders, particularly in the Evatt List and for matters coming out of the Lighthouse Project, where you can have quite serious allegations. When you are seeking a recovery order, co-located officers can turn information around in an hour, which is amazing. It allows judicial officers to have that information in front of them when they need to make those urgent decisions. They're the key benefits of co-location to date.
CHAIR: Thank you for sharing that. Is it too soon to have any data—we love data—from the legislation, where we started this conversation, about what we're seeing as a consequence?
Mrs Byng: We would have data about the number of orders issued, for example, seeking information from jurisdictions—that kind of data. I wouldn't have information available yet about the impact of information sharing, other than some of those anecdotal case studies that we are familiar with that have been shared with us.
CHAIR: If it is possible to share with us whatever data is available and some case studies to give us a picture of what it's doing, that would also be very welcome.
Mrs Byng: Yes—happy to do that

The response to the question is as follows:

A Data, Monitoring and Evaluation Plan has been developed to ensure necessary data is collected to inform the future statutory reviews and an evaluation of the *National Strategic Framework for Information Sharing between the Family Law and Family Violence and Child Protection Systems* (National Framework) and its Co-location Program. This will also involve the collection of data through regular surveys.

The first Data Collection Survey is due to be completed in November 2024, which marks 6 months post commencement of the National Framework in May 2024.

The following case study has been generated by a child protection agency participating in the Co-location Program, which has been operating since early 2020.

Case Study

Background:

- Case relates to a parenting dispute of a three-year-old girl. The child's mother had died some months prior to the commencement of the proceedings. The paternal grandmother (PGM) had initiated the proceedings, with the maternal grandmother (MGM) and the child's father listed as the first and second respondent.

- The father sought for the child to reside in the primary care of the PGM. The PGM was granted the primary care of the subject child on an interim basis and the MGM was permitted once per week contact with the child. At that time, the court were informed by the agency's section 67Z response: that the agency was closing involvement, assessing that the Federal Circuit and Family Court of Australia (FCFCOA) were best placed to address the ongoing residence issues of the child.

- A short while later, the agency received child protection reports that both the PGM and father were sighted in their community as drug affected, whilst caring for the child.

- The agency investigated the concerns and asked that the PGM complete supervised drug screens. The PGM's first screen tested positive for methamphetamines and cocaine. The PGM said to the agency that at the time she used substances, the child was in the care of the MGM. The agency asked PGM for another supervised drug screen which came back positive for methamphetamines and amphetamines.

- The agency understood that the FCFCOA had placed the child in the care of the PGM. They were now concerned that the interim parenting orders were placing the child at risk of harm. Based on the concerns for the child's safety, the agency considered bringing the matter before the Childrens' Court, with the view that the child should be placed with the MGM.

Actions:

- An urgent consultation occurred between the agency team managing the case, the Co-located officials and the agency's Child Protection Litigation Office (CPLO).

- The Co-located official contacted the Senior Judicial Registrar's chambers, advising that agency had concerns for the child in the care of PGM, and that the FCFCOA were not aware of these concerns.

- The Senior Judicial Registrar listed a hearing for the next morning and ordered that the agency generate a report to assist the hearing.

- The agency appeared amicus curiae at the hearing the next day.

- The agency outlined that, unbeknownst to the court, the PGM had completed two positive drug screens for illicit substances and that she had failed to advise the Court of this information.

- The Senior Judicial Registrar suspended the interim order effective immediately and placed the subject child in the care of the MGM, which the agency supported and recommended. Based on the concerns regarding the PGM's illicit drug use, the PGM's contact with the child was ordered to be supervised in a contact centre.

Outcome:

- Critical risk-related information was provided to the Court on an urgent basis to inform decision making for the child.

- The information provided by the agency avoided the risk of the Court making a potentially unsafe decision for the child.

- The matter remained in the family law jurisdiction, with the support of the agency.

- Both the Court and the agency were aware and mindful of the child's cultural rights whilst balancing her need for safety in the community.

Key reflections:

- The Co-located official acted as the conduit between the Court and the agency.

- The Co-located official alerted the Court to risk related information. This enabled the Court to list an urgent hearing for the matter on the following day.

- The agency assisted and worked in collaboration with the Court to ensure the child's safety and welfare.

- The matter remained in the FCFCoA and the need to move the matter into the Childrens' Court was avoided.

The Committee can access the Evaluation of the Co-location Pilot, which preceded the Co-location Program, on the Attorney-General's Department website: Co-location Pilot Evaluation – Final Report | Attorney-General's Department.

House Standing Committee on Social Policy and Legal Affairs

Family violence orders

Attorney-General's Department

Hearing date: 11 October 2024

Question date: 24 October 2024

Susan Templeman asked the following question:

1. The Law Council of Australia recommended that section 114AB be amended to ensure FCFCOA is empowered to grant PPIs, and that a separate court list be established and resourced to deal with PPIs, with the capacity to hold urgent hearings. What additional resourcing would be required to establish a separate court list to deal with PPIs?
2. How is Lighthouse being monitored and evaluated?
a. What opportunities are there to improve the accessibility of Lighthouse to ensure that individuals with low English language and digital literacy, and those with disability, can complete the risk screening?
b. Are there ways that Lighthouse can be enhanced so that risk assessments can be updated as risks change over time during the family court process?
3. What information is being shared between family law courts and state and territory courts under the National Framework?
a. What funding is being provided for information-sharing processes under the National Framework?
b. What work is being done to raise awareness of the expanded scope of information that can be sought from agencies following the commencement of the Family Law Amendment (Information Sharing) Act 2023 in May?
c. There are calls for a national family violence risk information sharing scheme, which includes a real-time register or dashboard of all information relevant to the protection of victim-survivors and children. If such a scheme were to be adopted, what are the key considerations for the Australian Government?
d. There is support for broadening information-sharing to include other frontline services that victim-survivors interact with. What are the benefits, risks and potential challenges that should be considered if this were to be introduced?
4. Can you give us an update on the work of the national review of domestic violence order frameworks, and when this is expected to be completed?
a. What inconsistencies in approaches across jurisdictions has this work identified?
b. Are you able to provide us with a comparison table of state and territory FVO frameworks?
5. How are the National Principles to Address Coercive Control in Family and Domestic Violence creating a shared understanding of coercive control and its impacts across police and justice systems?
a. Have you identified any inconsistencies in how jurisdictions are implementing the National Principles, and what is being done to address these?
b. The Australian Institute of Criminology recently released research that identified gaps in supporting victim survivors of technology-facilitated coercive control. What opportunities for improvement did this work identify?
6. How many police will be trained by the program funded in the 2022-23 Budget?

a. What does the training focus on?
b. How will the training outcomes be assessed?
c. Is there any plan for this training to be ongoing, for example in the training of new police recruits in the future, or for refresher training to be provided?
7. What funding was provided under the National Plan to train frontline workers, law enforcement and legal practitioners to better recognise and respond to victims of sexual violence in a way that supports their safety, autonomy and rights?
a. What does the training involve?
b. How will the training outcomes be assessed?
c. Is there any plan to provide comprehensive family violence training to these cohorts?
d. If the government wanted to require lawyers and judicial officers working with victim-survivors of family violence to have specialist training and accreditation, what would it need to consider?
8. Proposed laws to criminalise breaches of personal protection injunctions and to create a federal family violence order scheme did not proceed. What were the main concerns with these proposals?
a. What are the current penalties for breaching a personal protection injunction?
b. If the government wanted to amend section 114AB to ensure family law courts can grant personal protection injunctions, what would it need to consider?
c. Are there any barriers to establishing a separate court list to deal with applications for personal protection injunctions, with the capacity to hold urgent hearings?

The response to the question is as follows:

1. **The Law Council of Australia recommended that section 114AB be amended to ensure FCFCOA is empowered to grant PPIs, and that a separate court list be established and resourced to deal with PPIs, with the capacity to hold urgent hearings. What additional resourcing would be required to establish a separate court list to deal with PPIs?**

Any proposal to create a separate court list to deal with personal protection injunctions (PPIs), including the holding of urgent hearings to deal with PPIs, would have significant resourcing implications.

It is noted that in the 2023/2024 financial year, 83% of parenting matters filed with the Courts included an allegation that a party had experienced family violence, and 77% of parenting matters alleged that a child had experienced family violence. Therefore, a significant number of the matters filed with the Courts could potentially involve the seeking of an urgent PPI.

The Federal Circuit and Family Court of Australia (FCFCOA) has also noted a range of potential practical and process issues regarding creating a separate list for PPIs, including the extent to which such a list would be practically useful in circumstances in which the evidence relied upon for the PPI would almost always be relevant to the substantive issues before the court.

Where, for instance, there has been a violent incident, it is likely that the application concerning the parenting arrangements is just as pressing as the PPI. The Courts have processes to ensure that urgent matters are dealt with in a timely manner. In the normal course, the application in relation to interim parenting orders and the application for a PPI would be heard and determined together. Requiring the PPI to be heard in a separate list would likely delay consideration of the substantive aspects, which would not be desirable.

Further issues for consideration are identified below at question 8c.

2. How is Lighthouse being monitored and evaluated?

A multi-stage, multi-year evaluation of the Lighthouse Pilot occurred between 2020-2022. The evaluation included interviews with litigants who had participated in the Lighthouse Pilot, including those with lived experience of family violence and other family safety risks, as well as perspectives from the legal profession, judicial officers, court staff and other professionals. The evaluation found that the strategic intent of the Pilot was being realised across the three pilot sites and recommended its expansion. The evaluation's findings and recommendations were closely considered when preparing for national expansion in November 2022.

Since the expansion, the FCFCOA continually monitors Lighthouse to ensure it continues to meet its objectives, this includes through regular reporting to Government, the creation of dedicated internal stakeholder groups to support the ongoing operation and integrity of the Evatt List (high risk list), and feedback provided by formal and informal mechanisms. The expansion of Lighthouse has continued to exceed the results and engagement outcomes following the pilot. The data is demonstrating a positive response and engagement by practitioners and parties alike, and positive feedback has been received, particularly in relation to the role and support that Triage Counsellors provide.

2a. What opportunities are there to improve the accessibility of Lighthouse to ensure that individuals with low English language and digital literacy, and those with disability, can complete the risk screening?

Lighthouse provides the following options for completion and information on the risk screen to support parties to complete the risk screen:

- High risk parties are offered interpreters to engage with the Triage Interview with Triage Counsellors.

- Dedicated iPads for Lighthouse are available in all 15 family law registries for parties to complete the risk screen on: This enables parties who are concerned that their personal devices are under surveillance, do not have access to technology or do not feel comfortable using the technology, have literacy needs, and/or would like in person support, to complete the risk screen.

- Risk screening over the phone is available where parties do not feel comfortable completing the risk screen online, have literacy needs, and/or seek additional support to complete the risk screen. Lighthouse Support Officers will reach out to the party to organise a time to call them. The Lighthouse Support Officer will then support the party to complete the risk screen, which subject to the party's specific request, includes reading the risk screen out to them and completing on their behalf, and clarifying questions where required.

- A range of materials on Lighthouse and the role of the Triage Counsellor have been translated and are made available to parties - Lighthouse information sheet for parties - risk screening - translated versions | Federal Circuit and Family Court of Australia (fcfcoa.gov.au) and Lighthouse - Triage Counsellors fact sheet - translated versions | Federal Circuit and Family Court of Australia (fcfcoa.gov.au)

2b. Are there ways that Lighthouse can be enhanced so that risk assessments can be updated as risks change over time during the family court process?

The FCFCOA has advised the Courts use Family DOORS Triage as a risk screen to inform subsequent risk assessment. Screening describes the standardised process and first step in identifying risk issues. The purpose of screening is to provide a standardised method of scrutinising and assessing potential risk and urgency.

Use of Family DOORS Triage at the commencement of the matter acts as an administrative case management aid; it is not intended or designed to limit judicial case management options, decision making, or risk assessment in accordance with legislative frameworks, and each case must be reassessed as more information emerges at each court event.

Risk assessment is the clinical response to the screening and evaluating of individuals to:

- assess the likelihood and severity of future harm and/or violence;
- provide interventions to manage risk (such as a safety plan);
- provide referrals to appropriate services.

Risk assessment is conducted for high risk parties and other identified cases by Triage Counsellors. Risk is dynamic and can change throughout proceedings. The FCFCOA note that risk assessment does not 'stop', or indeed does not fail to be contemplated solely if a party chooses not to complete the risk screen. Risk is considered throughout the life of a proceeding and risk assessment is continually completed by judicial officers and by Court Child Experts.

The FCFCOA is also supporting a current research project *Family Violence Triage in Family Courts: Safety, Efficacy and Benefit*, following a successful application for an Australian Research Council (ARC) Linkage Grant by the research team led by Professor Jennifer McIntosh of The Bouverie Centre, La Trobe University. Utilising the Lighthouse risk screening and triage program, this research aims to examine risk pathways, burdens and costs of post-separation DFV, and the efficacy and cost-benefits of early DFV triage. The project expects to produce new knowledge about family and systemic drivers of safety, to advance evidence on the efficacy of DFV triage and to translate findings into new resources that will be directed to prevent DFV harms. The outcomes of this research is expected to assist the Courts.

3. What information is being shared between family law courts and state and territory courts under the National Framework?

Information that may be shared by family law courts to state and territory courts include:

- Interim and final orders
- Written judgements and transcripts
- Notices of child abuse or family violence risk; and
- Information about the status or details of a family law matter or a party to proceedings.

Information that may be shared by state and territory courts to the family law courts include:

- Applications, interim and final orders (including any family violence orders); and
- Written judgements and transcripts.

3a. What funding is being provided for information-sharing processes under the National Framework?

Between 2019-20 to 2027-28, the Government has allocated approximately $127 million to support enhanced information sharing between the family law, family violence and child protection systems under the *National Strategic Framework for Information Sharing between the Family Law and Family Violence and Child Protection Systems* (National Framework) and its Co-location Program.

3b. What work is being done to raise awareness of the expanded scope of information that can be sought from agencies following the commencement of the *Family Law Amendment (Information Sharing) Act 2023* in May?

Since commencement of the *Family Law Amendment (Information Sharing) Act 2023* (Information Sharing Act) on 6 May 2024, the department has published factsheets on the department's website for parents and parties, and legal professionals, including easy read and translated versions of the factsheet for parents and parties.

Training for information sharing officers from all participating entities was delivered in June 2024. An online learning hub has also been developed, which allows information sharing officers to watch a recorded version of the training and continue their learning at their own pace, including through the inclusion of additional web resources.

3c. There are calls for a national family violence risk information sharing scheme, which includes a real-time register or dashboard of all information relevant to the protection of victim-survivors and children. If such a scheme were to be adopted, what are the key considerations for the Australian Government?

There have been a number of suggestions for different forms of a register or dashboard that could enhance information sharing. As part of information sharing work progressing under the National Framework in February 2023, the department engaged an external consultant, Portable, to scope a potential technological solution to support information sharing under the National Framework between the family law courts and the family violence and child protection systems (the scoping study).

The scoping study concluded on 30 September 2023. In part, the scoping study found the digital landscape of information sharing holdings across the family law, family violence and child protection systems to be very complex, and noted any national solution would require coordination and agreement of jurisdictions, changes to state and territory legislation and regulation considerations, would necessitate working with different technologies across the jurisdictions, and would need to address privacy concerns.

On 6 September 2024, National Cabinet also announced measures to deliver innovative new approaches to better identify high risk perpetrators, share information about them across systems and state boundaries, and intervene early to stop violence escalating.

3d. There is support for broadening information-sharing to include other frontline services that victim-survivors interact with. What are the benefits, risks and potential challenges that should be considered if this were to be introduced?

Enhanced information sharing under the National Framework and the Co-location Program currently involves information sharing between the family law courts and state and territory courts and child protection, policing and firearms agencies.

The department consulted extensively with the family law courts, state and territory courts, child protection, police and firearms authorities, as well as peak national non-government organisations, to develop the National Framework and associated legislative amendments in the Information Sharing Act.

In addition to the one year statutory review requirement, an evaluation will be undertaken 3 years from commencement of the Information Sharing Act to evaluate the impact and effectiveness of the National Framework and its Co-location Program, which will also provide insight into appropriate areas in which to broaden the scope of the enhanced information sharing framework. Some considerations that may need to be considered when including other frontline services that victim-survivors interact with include considering safety and privacy-related concerns.

4. Can you give us an update on the work of the national review of domestic violence order frameworks, and when this is expected to be completed?

The Attorney-General's Department is currently conducting a national review of domestic violence order Frameworks, which includes the scope of the National Domestic Violence Order Scheme (NDVOS) with the measure due to conclude by 30 June 2026.

The department has conducted a review of each state and territory's legislative family violence order frameworks, and is progressing this work through the Family, Domestic and Sexual Violence Working Group (FDSV Working Group).

Work to date will inform a comparative analysis to identify inconsistencies and potential reform options across jurisdictional frameworks. Once finalised, the outcomes of the review will be progressed through the FDSV Working Group and it is anticipated to report to the Standing Council of Attorneys-General and Police Ministers Council in the course of the 2025-26 financial year.

4a. What inconsistencies in approaches across jurisdictions has this work identified?

The national review of domestic violence order frameworks is still underway, with the identification of any gaps and inconsistencies to be progressed throughout 2025

To date, some of the inconsistencies identified include who may issue an FVO, notification requirements of other parties, and the date of enforceability. Additionally, there are inconsistencies in the length of an issued FVO across jurisdictions and the maximum penalties that may be imposed if an FVO is breached.

4b. Are you able to provide us with a comparison table of state and territory FVO frameworks?

A comparison table of state and territory FVO frameworks is not currently available. This work is underway as part of the National Review.

5. How are the National Principles to Address Coercive Control in Family and Domestic Violence creating a shared understanding of coercive control and its impacts across police and justice systems?

On 22 September 2023, the Australian Government and state and territory governments endorsed the National Principles to Address Coercive Control in Family and Domestic Violence, which outline a shared understanding of coercive control and its impacts. The National Principles will help raise awareness of coercive control, inform more effective responses to family and domestic violence, and promote more consistent support and safety outcomes for victim-survivors.

The 2022-23 Budget provided $12.6 million over five years for a nationally coordinated approach to education and training on family, domestic and sexual violence (FDSV) for community frontline workers, health professionals, legal practitioners, the judiciary and justice sector. This included $0.9 million for the development and delivery of a training package on coercive control for legal practitioners.

The training package will build on work the Australian Government has undertaken with states and territories on the development of the National Principles, and will embed the National Principles as a common national foundation for legal practitioners.

Additionally, the 2022-23 Budget allocated $4.1 million over four years to enhance the effectiveness of police responses to FDSV through the development and delivery of a national training and education package. Building on training that exists in the states and territories, the package will seek to enhance police responses through increasing awareness of coercive control as a dynamic that almost always underpins family and domestic violence.

5a. Have you identified any inconsistencies in how jurisdictions are implementing the National Principles, and what is being done to address these?

The National Principles are not prescriptive in regard to the implementation of laws, policies and initiatives to prevent and respond to coercive control across states and territories. They provide a foundation to build wider awareness of coercive control within the community, while providing flexibility to allow governments and non-government organisations to design their own tailored approaches. Approaches should be informed by, and aligned with, these National Principles.

Upon endorsing the National Principles at their 22 September 2023 meeting, the Standing Council of Attorneys-General agreed to progress initiatives that increase awareness and improve responses to coercive control in alignment with the National Principles – see Standing Council of Attorneys-General (SCAG) communique – September 2023.

State and territory governments are at different stages of considering how to address coercive control, and the National Principles will inform this consideration.

5b. The Australian Institute of Criminology recently released research that identified gaps in supporting victim survivors of technology-facilitated coercive control. What opportunities for improvement did this work identify?

The Australian Institute of Criminology's (AIC) research released on 3 October 2024, 'Technology-facilitated coercive control: Mapping women's diverse pathways to safety and justice', provided 10 recommendations. Many of these recommendations focused on enhanced awareness and training specific to technology-facilitated coercive control (TFCC).

When agreeing to release the National Principles to Address Coercive Control in Family and Domestic Violence (National Principles), the Standing Council of Attorneys-General also agreed to progress initiatives that increase awareness of, and improve responses to, coercive control, in alignment with the National Principles.

To achieve this, at the Commonwealth level, the department has released resources throughout 2023 and 2024 to support accessibility, improve community awareness, guide healthcare professionals to recognise and respond to coercive control, and educate young people about coercive control and healthy relationships. These resources incorporate information about TFCC, with a dedicated fact sheet about TFCC also developed. These resources are available at: https://www.ag.gov.au/families-and-marriage/publications/understanding-technology-facilitated-coercive-control.

Further questions regarding the content of the AIC's work should be directed to the AIC.

6. How many police will be trained by the program funded in the 2022-23 Budget?

At this time, the department is unable to advise how many police will be trained under the enhancing training for law enforcement in FDSV measure. The training is intended to be rolled out nationally and will be made available to all jurisdictions.

6a. What does the training focus on?

The final and specific content of the training is still to be confirmed. At this time, it is anticipated that the training will focus on a number of topics that are key to enhancing the effectiveness of police responses to family, domestic and sexual violence. For example, identifying the primary aggressor to reduce instances of misidentification, coercive control, culturally safe policing responses and trauma informed models of response to minimise re-traumatisation amongst other topics.

6b. How will the training outcomes be assessed?

The department has engaged an independent body to develop and implement a developmental evaluation to underpin the training measure, with a focus on continuous improvement. The evaluation framework is currently being developed, but will seek to measure outcomes such as increases in police knowledge, changes to existing biases and identify enablers and barriers in the states and territories. The evaluation will be informed by a diversity of perspectives.

6c. Is there any plan for this training to be ongoing, for example in the training of new police recruits in the future, or for refresher training to be provided?

At this time, no decision has been made regarding the ongoing nature of this training.

7. What funding was provided under the National Plan to train frontline workers, law enforcement and legal practitioners to better recognise and respond to victims of sexual violence in a way that supports their safety, autonomy and rights?

The Government provided $12.6 million over five years from 2022-23 to the department and the Department of Social Services (DSS) to deliver Family, Domestic, and Sexual Violence (FDSV) education for frontline workers, health professionals and the justice sector. Questions regarding the education for frontline workers and health professionals should be directed to DSS.

As part of this combined measure, the Attorney-General's portfolio received $2.6 million over

five years to resource the development and extension of resources and training for the justice sector, including the judiciary and legal practitioners, to build understanding and capability around engagement with victim-survivors and their families when they are navigating the justice system. This included:

- $1.1 million to develop and deliver a national justice sector education and training package on the nature and impacts of sexual assault, comprising a foundational education resource on sexual assault myths and misconceptions, and a national judicial officer training package and conference

- $0.9 million to develop a training program for legal practitioners on coercive control

- $0.4 million for continued funding for the ongoing maintenance of the National Domestic and Family Violence Bench Book and continued delivery of the Family Violence in the Court training program for judicial officers, and

- $0.2 million over five years in departmental funding for implementation including funding to establish and run grants programs through the Community Grants Hub.

Additionally, the 2022-23 Budget allocated $4.1 million over four years from 2022-23 to 2025-26 to enhance the effectiveness of police responses to FDSV through the development and delivery of a national training and education package. The package will reflect the views and experiences of those with lived experience of FDSV, and include content to address culturally safe policing responses and trauma informed models of response to minimise re-traumatisation.

7a. What does the training involve?

Since 2016, the National Judicial College of Australia (NJCA) has been delivering the Family Violence in the Court Training program to federal, state and territory judicial officers, including magistrates and tribunal members. It is delivered face-to-face and supplemented by e-learning modules. It builds upon the National Domestic and Family Violence Bench Book resource. States and Territories co-contribute funding for this work.

NJCA has also delivered 6 training sessions as part of the judicial training package on the nature and impacts of sexual assault since the program commenced in 2024. This training has been delivered in the ACT, South Australia, Victoria, Queensland, New South Wales, and Western Australia.

The judicial conference, Enhancing Safe Practice: A National Justice Forum on Sexual Assault, was delivered by the Australian Institute of Judicial Administration on 2-4 August 2024 at the Supreme Court of NSW.

The Australian Institute of Family Studies has been engaged to develop a foundational education resource on sexual assault on myths and misconceptions which is due to be finalised in late 2024.

7b. How will the training outcomes be assessed?

The training programs referred to in 7a. are delivered through grant arrangements. The department will evaluate grant program delivery to assess how well the outcomes and objectives have been achieved, using information from the grantees' applications, progress reports and regular discussions with the grantees to monitor progress of the design and delivery of training and assess the effectiveness of the programs in achieving their outcomes.

For the law enforcement training measure, please see the response to 6b above.

7c. Is there any plan to provide comprehensive family violence training to these cohorts?

The Australian Government co-funds measures with the states and territories to improve the family safety competency of judicial officers, such as the development and maintenance of a National Domestic and Family Violence Bench Book and the delivery of the Family Violence in the Court Training Program.

Through the Family Domestic and Sexual Violence (FDSV) Working Group of the Standing Council of Attorneys-General, the Government is working with the states and territories to strengthen legal practitioners' competencies in family violence through continuing professional development (CPD) frameworks.

In the 2022-23 Budget, the Australian Government also provided $0.9 million over 4 years from 2022 23 to 2025-26 to support training for legal practitioners on coercive control. This measure will ensure the training can embed the National Principles to Address Coercive Control in Family and Domestic Violence as a common national foundation for legal practitioners.

The Enhancing training for law enforcement in FDSV measure will increase awareness of coercive control as a dynamic that almost always underpins family and domestic violence, and improve recognition of indicators to identify the more subtle behaviours of FDSV, including through the use of technology facilitated abuse.

Additionally, the training and education measure will equip police to better identify and support victim survivors of FDSV, respond appropriately to cultural sensitivities and recognise the impact of FDSV on their families and children more broadly.

Questions regarding training for other cohorts, such as frontline workers, should be directed to DSS.

7d. If the government wanted to require lawyers and judicial officers working with victim-survivors of family violence to have specialist training and accreditation, what would it need to consider?

In terms of the provision of training to judicial officers, the government funds the National Judicial College of Australia (NJCA) to provide training to Australian judicial officers to enhance the competence and capability of judicial officers to conduct fair and trauma-informed hearings involving allegations of sexual offending, and to improve trial practice in Australian courts. Training delivered by the NJCA is designed to support the continuing professional development of Australian judicial officers at every stage of their career.

Ongoing professional development, specialist training and accreditation requirements for lawyers who work with victims-survivors of family violence is a matter for the relevant bodies in each state and territory.

Through the Family Domestic and Sexual Violence (FDSV) Working Group of the Standing Council of Attorneys-General, the Government is working with the states and territories to strengthen legal practitioners' competencies in family violence through continuing professional development (CPD) frameworks.

In the 2022-23 Budget, the Australian Government also provided $0.9 million over 4 years

from 2022 23 to 2025-26 to support training for legal practitioners on coercive control. This measure is aimed at embedding the National Principles to Address Coercive Control in Family and Domestic Violence as a common national foundation for legal practitioners.

8. Proposed laws to criminalise breaches of personal protection injunctions and to create a federal family violence order scheme did not proceed. What were the main concerns with these proposals?

Measures to criminalise family law personal protection injunction (PPI) breaches were originally included in the Family Law Amendment (Family Violence and Other Measures) Bill 2017, but were removed following public consultation on the exposure draft which occurred from 9 December 2016 to 20 January 2017. This was due to concerns raised about implementation and enforcement of matters associated with the measure. Practical considerations around police enforcement of PPIs included:

- concerns arising from the family law courts' broad discretion to impose conditions that may not warrant police intervention, such as non-denigration clauses
- the potential for undue delay arising from the complexity of some family law orders which may contain an injunction within a suite of wider orders, making the injunction difficult to quickly identify which could lead to delay in police response times
- concerns regarding arrest powers and uncertainty around the existence, enforceability and terms of a PPI, and
- PPIs are also not issued in a format that is compatible with police information sharing systems, which would create further challenges for police enforcement of the injunctions.

On 24 March 2021, the Family Law Amendment (Federal Family Violence Order) Bill 2021 (the FFVO Bill) was introduced. The FFVO Bill proposed to introduce provisions allowing the FCFCOA and the Family Court of Western Australia to make final federal family violence orders (FFVOs), under a final order-only framework.

On 13 May 2021, the FFVO Bill was referred to the Legal and Constitutional Affairs Legislation Committee for inquiry, with the Committee tabling its report on 29 July 2021. The majority report made three recommendations relating to implementation, concerning:

- the interaction of FFVOs with state and territory family violence orders
- the management of risks relating to systems abuse, and
- the accessibility of FFVOs to those in regional and remote areas.

Dissenting report recommendations included queries around an interim order framework, resourcing and minimising potential systems abuse.

The FFVO Bill lapsed with the prorogation of the 46th Parliament.

8a. What are the current penalties for breaching a personal protection injunction?

Breach of a family law personal protection injunction (PPI) requires the protected person to institute contravention or contempt proceedings against the offending person in a family law court.

Orders relating to contraventions for child-related orders are detailed under Division 13A, Part VII of the Family Law Act and for non-child-related matters, under Part XIIIA.

Depending on the circumstances of the matter, the Court may make orders varying or suspending a parenting order, requiring attendance at a post-separation parenting course, requiring a respondent to enter into a bond, imposing a fine or imposing a sentence of imprisonment.

Where an injunction is in force for the personal protection of a person and a police officer believes on reasonable grounds that there has been a breach of the injunction, the police officer may arrest the respondent without warrant. However, a breach of a PPI is not a criminal offence and the department understands, this remedy is rare.

8b. If the government wanted to amend section 114AB to ensure family law courts can grant personal protection injunctions, what would it need to consider?

The department understands from submissions made to this Inquiry that there are concerns section 144AB requires re-clarification. The department notes any legislative amendments to the Family Law Act would be a matter for Government.

8c. Are there any barriers to establishing a separate court list to deal with applications for personal protection injunctions, with the capacity to hold urgent hearings?

Any proposal to establish a new separate court list would involve policy, resourcing, and logistical considerations and would likely require additional funding through a Budget process, which is a matter for Government.

In addition to considerations identified at Question 1 and Question 8 above, the FCFCOA is not resourced to routinely operate out of hours or on weekends and would not be able to hold personal protection injunction (PPI) hearings out of hours.

Considerations as to service, procedural fairness considerations and notice requirements on a respondent also requires consideration when contemplating urgent listings.

The FCFCOA have also identified that a discrete list on the issue of a PPI may require cross examination of parties. Such cross examination would then also be required at the substantive hearing. The impact on a victim-survivor of being required to give evidence at two separate hearings is a factor to consider, as is the additional legal costs for a separate hearing. Enforcement activity also raises resourcing concerns.

This could also impact funding of the cross-examination of parties scheme and delay the Court’s ability to hear such matters urgently and at short notice.

House Standing Committee on Social Policy and Legal Affairs

Family violence orders

Attorney-General's Department

Hearing date: 11 October 2024

Question date: 24 October 2024

Susan Templeman asked the following question:

1. What work has been undertaken to improve the consistency of state and territory courts' use of section 68R to amend parenting orders in response to the safety concerns of applicants?

The response to the question is as follows:

The Australian Government co-funds with the states and territories the development and maintenance of a National Domestic and Family Violence Bench Book (Bench Book) and the delivery of the Family Violence in the Court (FVitC) training program. The Bench Book is an online educational resource for judicial officers in all Australian jurisdictions and aims to promote best practice, develop consistency in judicial decision-making and improve court experiences for victim-survivors. Building on the Bench Book, the FVitC training program, is delivered to judicial officers across Australia in all jurisdictions on a periodic basis.

The Bench Book provides an overview of section 68R of the *Family Law Act 1975 (Cth)* and highlights important considerations for its application. The Bench Book addresses state/territory jurisdiction and the intersection of legal systems, the various considerations for judicial officers in protection order application proceedings, including varying any family law order that may conflict with a proposed protection order under section 68R.

The application of section 68R is also considered in the FVitC training program, specifically when the training is delivered to state and territory magistrates.

In the 2022-23 Budget, the Australian Government provided $0.4 million over five years for the Commonwealth's contribution to the maintenance of the Bench Book and development and delivery of the FVitC training program.

House Standing Committee on Social Policy and Legal Affairs

Family Violence Orders

Attorney-General's Department

Hearing date: 11 October 2024

Question date: 24 October 2024

Susan Templeman asked the following question:

1. Can you tell us more about the proposed legislative reforms to introduce safeguards around the disclosure of medical and counselling records in family law proceedings?
2. What did the Metcalfe review find about the need for case management to assist victim-survivors to navigate services, and is there work underway to implement this?

The response to the question is as follows:

1. The Family Law Amendment Bill 2024 (the Bill) was introduced into Parliament on 22 August 2024 and passed the House of Representatives on 11 September 2024. The Legal and Constitutional Affairs Legislation Committee reported on the Bill on 31 October 2024.

The Bill includes a new mechanism for courts to safeguard evidence of 'protected confidences', such as records or accounts of medical treatment or counselling in family law proceedings.

This measure recognises that, while often relevant to the issues a court must determine, the use of this evidence in family law proceedings is often invasive and traumatic for parties and children, and can be an avenue for perpetrators of family violence to misuse the family law system and continue to abuse their former partner. The lack of protections in legislation for protected confidences also provides a disincentive for litigants, or prospective litigants, to engage frankly with health and support services.

The proposed legislation will allow a court to make a direction that evidence not be adduced, or produced, inspected or copied in proceedings where the harm that might be caused to a party, or a child involved in proceedings, outweighs the desirability of the evidence being available to the court.

In making such a determination, the legislation provides that the best interests of the child is the paramount factor.

2. The Metcalfe review of the Family Relationship Services Program (FRSP) recommended that case management should be specifically funded within each Family Relationship Centre (FRC) Hub. FRC Hub is the description used in the review for the proposed service model for the FRSP moving forward, where the majority of the program's current services are integrated into a single grant, rather than being split over seven separate grant types. Mr Metcalfe recommended that additional funding of around $17.4m (ongoing) should be provided to allow each Hub to support two dedicated case management positions. Case management

support is recommended to be tailored to clients' needs and capacity, and include a focus on safety for matters involving family violence.

The report's recommendations are currently under consideration by government.