

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS  
ATTORNEY-GENERAL'S DEPARTMENT

**Program 1.1**

**Question No. 50**

**Senator Boyce asked the following question at the hearing on 22 February 2011:**

**Senator BOYCE**—I understand they are on 1.6. We were not entirely sure where to ask these questions, so I will ask them here and see what happens. They are related to what might be done to assist cult survivors, people who have been emotionally and psychologically broken, in some cases, by their involvement in cults. I wanted to start by asking what involvement attorneys-general had in the recently released *National plan to reduce violence against women and their children*, which is a COAG initiative released in the last couple of weeks.

**Mr Wilkins**—It is considerable. I will try to get somebody who is going to give you a fairly long brief on this, I suspect.

**Senator BOYCE**—A what?

**Mr Wilkins**—A long explanation about it.

**Ms Kelly**—The department was involved in that initiative. Unfortunately, the officer with the detailed knowledge has been excused because this would have been under 1.1, but we can take it on notice and provide you with full information.

**Senator BOYCE**—That would be good. Do you agree with the definition at the beginning of the report which says that domestic violence includes physical, sexual, emotional and psychological abuse? Later, it says that psychological and emotional abuse can include a range of controlling behaviours such as control of finances, isolation from family and friends, continual humiliation, threats against children or being threatened with injury or death.

**Ms Kelly**—I do not have that document in front of me. I would obviously need to look at it in the context in which that definition appears, but I would be happy to do that and take it on notice and come back to you on that.

**Senator BOYCE**—I wanted then to go to the question of what, if anything, the department has done in relation to including definitions of psychological and emotional abuse into the definitions of violence in a way that would assist cult survivors.

...

**Mr Minogue**—One of the aspects where we have been involved in relation to that national plan and the definitions of family violence is in relation to the family law system and those issues that the Family Court would deal with. There is a consultation process and exposure draft legislation that has been out for consultation I think since December of last year. They do look at expanding the definition of family violence to include controlling and intimidating patterns of behaviour. That process is still continuing. Where I cannot assist you though is in relation to the state regimes which would be relevant to the issue of cult survivors, which is more about the criminality of family violence—the assault and deprivation of liberty, those kinds of issues. That is not related to the family law system that we are involved in. There might be others who can address some of the more criminal elements in the state regimes but that is not something that I can directly assist you with. I am happy to take that on notice and see if there is something we can do with that.

**Senator BOYCE**—If you could take it on notice, because this plan was a COAG initiative.

**Mr Minogue**—Sure.

**The answer to the honourable senator's question is as follows:**

The development of the National Plan to Reduce Violence Against Women and their Children by the COAG Official Working Group was oversighted by a Ministerial Council, co-chaired by the then Minister for the Status of Women The Hon Tanya Plibersek MP and the Attorney-General, The Hon Robert McClelland MP. The Ministerial Council met on 22 September 2009, 5 November 2009 and 28 January 2010. The Ministerial Council consisted of a number of Attorneys-General and various Ministers for women's issues, families and communities and housing. As well as the Commonwealth Attorney-General, membership of the Ministerial Council

included the Attorneys-General of New South Wales, Victoria, Queensland, Tasmania, Western Australia and the Australian Capital Territory.

The National Plan definition of violence describes the range of behaviours that are now regarded as domestic violence. Being able to identify family violence is an important step in responding to the problem.

Currently the *Family Law Act 1975 (Cth)* defines ‘family violence’ to mean ‘*conduct, whether actual or threatened by a person towards, or towards the property of, a member of the person’s family, that causes that family member or any other member of the person’s family reasonably to fear for, or reasonably to be apprehensive about, his or her personal wellbeing or safety.*’ A number of reports have recommended that this definition be expanded, including the Family Law Council 2010 report on improving responses to family violence, the Australian Institute of Family Studies Evaluation of the 2006 family law reforms and the Family Courts Violence Review by Professor Richard Chisholm AM.

In response to these reports, Attorney-General released the Exposure Draft of the Family Law Amendment (Family Violence Bill) 2010 for public comment on 11 November 2010. One key proposal in the Bill was to widen the current definition of family violence in the Family Law Act to better capture harmful behaviour. The majority of submissions to the Exposure Draft supported measures in the Exposure Draft Bill to broaden the definition of family violence.

On 24 March 2011 the Attorney-General introduced the Family Law Legislation Amendment (Family Violence and Other Measures) Bill 2011 into the House of Representatives. The main purpose of the Bill is to promote safer parenting arrangements for children where there are family violence and child abuse concerns. The Bill encourages the disclosure of family violence and child abuse and clearly sets out the types of behaviour that constitute family violence and child abuse. The new definition of family violence is broadly based around the definition recommended by the Australian and New South Wales Law Reform Commissions in their report *Family Violence—A National Response*. The definition sets out a general characterisation of the behaviour, which must coerce, control or cause fear, and lists behaviour that fits within the definition as a non exhaustive list of examples.

States and Territories are generally responsible for criminal laws and enforcement action directed against criminal activity, including conduct resulting in physical, emotional or psychological harm, perpetrated by members of religious organisations. Law enforcement agencies and the Directors of Public Prosecutions are appropriately equipped to deal with allegations of wrongdoing or criminal activity.

State and Territory laws also provide for restitution and compensation for victims in certain circumstances, including through victims of crime compensation schemes. Access to such schemes varies depending on specific criteria in the relevant State or Territory.