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**Re: Review into the Victorian Law Reform Commission Family Violence and the Victims of Crime Assistance Act 1996**

The Australian Psychological Society (APS) welcomes the opportunity to respond to the Victorian Law Reform Commission's Family Violence and the Victims of Crime Assistance Act 1996 Review.

The APS understands the original focus of the Commission's review was on family violence and the Victims of Crime Assistance Act 1996 (the Act). We are aware that the supplementary terms of reference and consultation paper expand the focus of the review to consider the operation and effectiveness of the Act and the Victims of Crime Assistance Tribunal (VOCAT) *for all victims*, including family violence victims. Our response however will focus on the operation of the Act for victims of family violence, as was the original aim of the review.

Domestic or family violence is one of the most significant health and human rights issues in our community, and often remains an invisible or hidden crime. The negative impact of violence on the health and wellbeing of individuals, groups and communities is of great concern to the APS.

As the largest association for psychologists in Australia with more than 22,500 members, the APS is well placed to contribute to this consultation by identifying psychological research and best practice as it relates to family violence, particularly in ensuring the protection of victims from further harm. Psychologists often work as researchers and/or service providers with individuals and groups who experience or use violence, seeking to both prevent violent behaviour and address its impacts. This submission has been informed by consultation with APS members currently conducting research or working within the Victorian family violence system.

In 2015, the APS developed an extensive submission into the [Royal Commission into Family Violence](#) and has developed a [number of resources](#) on domestic violence and related issues which inform this submission. In October 2015, the APS bulletin [InPsych](#) also featured a series of articles by psychologists on domestic violence.

The APS is not in a position to respond extensively to this Review, but outlines an evidence-based position, drawn from psychological research and practice about what works to ensure the safety and wellbeing of children, parents and families, followed by a brief response to the specific terms of reference provided.

### **The nature of family violence**

From a psychological perspective, the APS understands family violence as an ongoing pattern of violent, abusive and controlling behaviours by one family member toward another family member or members, with men more likely to be the perpetrators of family violence, while women and children are most commonly the victims. Family violence consists of behaviours which are designed by the perpetrator to control the actions of the victim, including their resistance to the violence, and results in varying degrees of fear and intimidation. Another common aspect of this control is isolating the victim from potential sources of psychosocial support, both informal support from friends and family and formal victim services.

Violence has a significant impact on the mental health and wellbeing of victims (predominantly women and children). Violence against women is a major cause of reduced quality of life among women and children, and of distress, injury and death for women, and has serious secondary effects for families, communities, and the economy. Violence leads to a high prevalence of acute and chronic mental and physical health consequences, and being assaulted by or witnessing assaults toward family members in childhood or adolescence increases the likelihood of mental health problems, substance abuse, and involvement in abusive relationships for both women and men ([American Psychological Association, 1999](#)). Examination of the deleterious impacts of family violence on burden of disease has found that violence against women is the leading cause of premature death, disability and illness for women aged 15-44 years in Victoria (Vichealth, 2004).

Psychologically, the impact of domestic violence is complex. Women often feel it is too hard to continue to fight for justice, which can mean dealing with a range of legal, financial and other systems in order to address the situation. They find they must focus on the recovery and wellbeing of their children, usually while living with gravely reduced circumstances and ongoing harassment. The need to take time off work to attend court can affect their usually limited income and sometimes tenuous or casual employment. Women's physical health frequently suffers due to stress and anxiety. It can be very difficult to prove verbal and emotional abuse, yet this is the most common cause of long-term psychological distress.

Addressing violence is not a private matter but a community responsibility. Past approaches that see violence against women as an individual or a relationship problem will lead to practices that are ineffective, victim-blaming and unsafe. Comprehensive policy and practice responses to violence need to avoid gender blind conceptualisations (e.g., 'the violent couple', 'family conflict'), directly confront the violence as a central issue, encourage perpetrators to take responsibility for their use of violence, avoid blaming victims, and limit perpetrators' scope for abuse of power. This requires a whole-of-government approach to enforce legal sanctions and expand victims' options in housing, income support, job opportunities, legal redress, crime compensation and parenting support.

APS members with years of experience working in this field report the following as either contributing to the violence, or impeding recovery:

- Ignorance about the nature of abusive relationships, leading to a failure at all levels to recognise it. This includes the women themselves, their families and friends, and also the professionals they seek help from including doctors, lawyers and counsellors.
- Lack of supportive responses when women seek help. Women report very mixed responses from all types of professionals, including the police, the courts, health and legal personnel.
- Acceptance of controlling and abusive behaviour as appropriate male behaviour within society. Men are rewarded in some work environments for being non-collaborative, and what is actually bullying behaviour is viewed in some environments as indicative of decisiveness or strong leadership. A disproportionate sense of personal entitlement is characteristic of the partners of women seeking assistance following domestic violence.

- Lack of alternatives for women wishing to exit an unsafe relationship. There is a serious and chronic shortage of affordable housing, and women exiting such relationships are typically under 40 and have dependent children; this reduces their capacity to access paid work or private rental. Refuge housing is a last resort and more women than not are turned away due to shortages. Family violence is the most common reason given by women who seek help from homelessness services.
- The cyclic nature of domestic abuse means that women are often ambivalent about whether they wish to continue in the relationship. The psychological impact of living with abuse, alongside the inherent difficulties in leaving, make women very susceptible to temporary promises of change. This often exposes them to further abuse.
- The difficulty in making men accountable for domestic violence and abuse is a major impediment to recovery for women and children, and a major cause of repeated abuse. There are still low rates of charges being laid in the context of domestic assaults, and there is evidence that penalties for abusing a partner are less than if the man had similarly assaulted a stranger. Men often breach Court Orders with little or no consequence; Family Court judgements may minimise or ignore reports of abusive behaviour, and shared care arrangements may expose both abused women and their children to frequent distress, especially when more subtle forms of abuse and harassment are difficult to verify.
- At the personal level, a woman's subjective fear can be the best indicator of the dangerousness of her violent partner, regardless of any informal or professional risk assessment – yet her voice is often ignored, sometimes with fatal consequences.
- Women may be penalised for seeking help if they are diagnosed with a mental health issue, and help-seeking is sometimes regarded as evidence of pathology rather than as appropriate health self-care. Symptoms and aftermath reactions should be normalised rather than pathologised.
- While there is mounting evidence of the negative impacts of domestic violence on children's mental health and wellbeing, policy responses that treat women victims as 'perpetrators' of child abuse on these grounds are misdirected at best and counter-productive at worst.

## **Responding to the Family Violence and the Victims of Crime Assistance Act 1996: Terms of Reference**

Within the context of the above understanding about the nature of family violence, the APS supports a review and amendments to the financial assistance to victims of family violence under the Victims of Crime Assistance Act 1996.

As stated above, the focus of our submission is on victims of family violence and their access to Victims of Crime Assistance. Considering matters raised by Recommendation 106 of the Royal Commission into Family Violence and the *Family Violence and the Victims of Crime Assistance Act 1996: Terms of reference*, the APS supports the following measures:

- ***The eligibility test and whether it should be expanded***

An expansion of the eligibility test to include victims of family violence where a pattern of non-criminal behaviour results in physical or psychological injury should be considered. This should include economic, emotional and psychological abuse and recognise psychological harm in addition to diagnosed mental illness.

The definition of 'mental injury' in the Victorian Act for example, is one of the most restrictive. Expanding this definition would make the scheme more accessible to victims of family violence who do not have a recognised mental disorder or illness but would still benefit from counselling or other services that are suited to their needs, rather than medical reports geared only toward their legal application.

- ***Whether the amount of compensation awarded reflects the cumulative impact of family violence***

It is crucial to ensure that assistance provided sufficiently takes into consideration the cumulative harm and ongoing nature of family violence, rather than solely focusing on single offences. Financial assistance categories need to account for the full and complex range of costs commonly incurred by victims of family violence, which include:

- loss of their capacity to maintain their previous home
- high legal costs as a result of (i) being a victim requiring funding support in court matters or (ii) a property settlement

that does not take into account the dynamics of financial abuse in a relationship

- loss of earning capacity due to factors like PTSD, having the care of traumatised children, and time needed to attend appointments as part of re-establishment (e.g., Centrelink, police, DV services, housing services, lawyers, courts, counsellors, schools).
- loss of family heirlooms and valuable property taken by perpetrators
- loss of electronic equipment - many women have their phones and computers taken by partners
- expenses incurred in trying to achieve safety - moving house, changing locks, changing phones and phone numbers or purchasing an extra phone unknown to the perpetrator, changing cars, changing computers to eliminate spyware
- loss of inheritances and lump sum payments from employers where perpetrator partners have financial control in the household
- liabilities for debt taken out in the victim's name without her knowledge or under duress.

The APS supports the proposal that the definition of 'reasonable' be updated for the purposes of certain expenses, such as counselling, and that consideration be given to a focus on assistance rather than recovery.

- ***The matters giving rise to refusal of application***

A removal of the time limit of two years for making an application for assistance to VOCAT should be considered, in recognition of the varied and complex nature of family violence, including time taken to disclose and ongoing nature of abuse.

- ***The requirement to notify perpetrators***

The APS supports a change to the requirement by VOCAT to notify a perpetrator, especially where the matter has not been reported to police, or no charges have been laid, or the prosecution is discontinued or the person is acquitted. Men who perpetrate intimate partner violence are often enraged even years later by anything that benefits their former partners, and react by issuing threats, damaging property, slandering them, or refusing to pay child support or school fees. Keeping

claims confidential in cases of family violence reduces the risk of such added harm to victims and their children, and may encourage more victims to feel safe applying for compensation if their privacy is ensured.

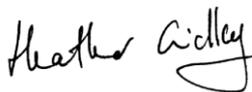
***Additional matters raised in the consultation paper***

In addition to the above-mentioned points, and outlined in further detail in the Commission's consultation paper, the APS also supports:

- a system which enables practitioners to provide more counselling sessions at their discretion, rather than victims having to re-engage lawyers to seek financial assistance to pay for it
- a trauma-informed service model which ensures that all of those in contact with victims have an understanding of the impact of family violence and effects of trauma more broadly
- an overarching provision which enables, or requires, VOCAT to consider the nature and dynamics of family violence when making a determination, exempting victims of family violence from some of the considerations under these provisions, or amending specific provisions to more explicitly reference family violence'
- improving measures to expedite awarding of compensation in relation to family violence cases, recognising that financial hardship is a significant consequence of family violence and impacts on a victim's ability to leave an abusive relationship and obtain safety
- better integration of the current system with other services and practitioners, including psychologists, to increase awareness of, and access to VOCAT.

We would be pleased to assist you further.

Yours sincerely,



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Manager, Public Interest  
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## References

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