



Safe Steps Family Violence Response
Centre's submission to

Inquiry into Family Violence Orders

**Standing Committee on Social Policy and
Legal Affairs**

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Contact:



Manager of Policy, Advocacy and Research



Introduction

Safe Steps Family Violence Response Centre is an organisation dedicated to supporting individuals and families affected by domestic and family violence across Victoria. Safe Steps provides a lifeline for those experiencing domestic abuse, offering 24/7 access to confidential support, information and referral.

Committed to empowering survivors and breaking the cycle of violence, Safe Steps offers a range of tailored services, including crisis response, risk assessment and safety planning, crisis accommodation, case management and court support. Our holistic approach addresses the complex needs of survivors, ensuring they receive comprehensive support on their journey to safety and healing.

At Safe Steps, diversity and inclusivity are fundamental values. We recognise the unique experiences and challenges faced by individuals from diverse backgrounds, including the LGBTIQ+ community, Aboriginal and Torres Strait Islander people and people living with disability and mental illness, and strive to provide culturally sensitive and accessible services for all.

With a team of dedicated staff, Safe Steps works tirelessly to raise awareness about domestic and family violence, advocate for systemic change, and promote a society where everyone can live free from fear and abuse.

The court support we provide is part of the Family Advocacy and Support Service (FASS) at the Melbourne Registry of the Federal Circuit and Family Court of Australia (FCFCA). Through this service we provide risk assessment and safety planning for people coming to court; provide practical information and support while at court; and connect people with other services.

The FASS Safe Steps team worked alongside other FASS team members, including duty lawyers from other agencies, to provide support, safety and legal advice to more than 300 people in the first six months of 2024.

This submission responds to the terms of reference for the Inquiry into Family Violence orders being conducted by the Standing Committee on Social Policy and Legal Affairs from the perspective of a specialist family violence service providing support to people both within and outside of the family law jurisdiction.

This submission uses composite case studies based on real cases to illustrate the experiences of the people we work with in direct reference to the questions posed in the Inquiry's terms of reference. The names and some details in the case studies have been changed to prevent identification of the people involved.

1. The risk of an escalation in the aggressive and violent behaviour of the perpetrator and heightened risk to the partner and children during FCFA proceedings.

It is certainly the experience of our practitioners and clients that violent behaviour can escalate around the time of court dates. This occurs regardless of whether it is a matter being heard in the FCFA or Magistrates' Court. Additionally, the violence experienced at these times is multi-faceted and includes stalking, coercive control and systems abuse (systems abuse, or abuse of process occurs when a party uses a range of litigation tactics to harass, intimidate, discredit or control the other party¹).

Case Study 1: Sophie.

Sophie and Dave had been together for more than [REDACTED] years and had [REDACTED] children [REDACTED]. Sophie separated from David in [REDACTED] after a period of abuse during the COVID lockdowns. She obtained a Victorian protection order (family violence intervention order (FVIO), per the *Family Violence Protection Act 2008 (Vic)*) which listed Dave as the respondent. Sophie provided evidence of ongoing physical, verbal and financial abuse.

When the Victorian FVIO expired, Sophie and Dave were involved in a property dispute under the *Family Law Act 1975 (Cth)* in relation to significant shared assets.

During this period, [REDACTED] Sophie reported these incidents to the police and says she was told there was not enough evidence to suggest Dave was responsible [REDACTED]. The reports went no further.

To improve her safety, Safe Steps supported Sophie in obtaining a personal safety initiative² response to help her remain safely in her home.

Sophie wanted to apply for a new FVIO but says the police advised her that they believed Dave was motivated by the property dispute, not family violence and would not be able to assist with an application. Sophie applied on her own and was self-represented – she was unable to access legal aid because of the assets that were the subject of the property dispute. Sophie's application for a new FVIO was unsuccessful but Dave gave an undertaking, which he has not complied with.

In our experience there is a correlation between court dates and escalation in violence. In Case Study 1, above, the escalation occurred at a time when the state-based protection order had expired but the property proceedings were on foot, meaning there was no protection in the form of an order from either court for Sophie and her children.

To compound the lack of safety for victim survivors around the time of FCFA proceedings, Safe Steps practitioners sometimes report a reluctance amongst some police officers to become involved in situations involving cross-jurisdictional concerns. Lack of clarity around responsibilities can have a significant impact on safety.

¹ National Domestic and Family Violence Bench Book (2023). Accessed 17/07/24
<https://dfvbenchbook.aija.org.au/understanding-domestic-and-family-violence/systems-abuse/>

² For more information see <https://providers.dffh.vic.gov.au/personal-safety-initiative-operational-guidelines>. Accessed 16/07/24

Additionally, it is our experience providing support in the FCFCA through FASS that the person who has used violence will behave in ways that are be physically intimidating towards both victim survivors and Safe Steps staff members at court.

2. The current barriers for litigants in the family law system to obtain and enforce FVOs.

In the experience of Safe Steps, one of the greatest barriers faced by litigants is the lack of freely available, simple to understand information about the roles of the different courts and responsibilities within different jurisdictions. The difficulties of the disharmonious intersection between state/territory and commonwealth family violence and child protection laws are well documented. The lack of knowledge about courts and enforcement mechanisms exacerbates the experience of family violence resulting in further traumatising of the person who has experienced violence and can place people at additional risk.³

As a service that provides crisis and emergency services in Victoria, alongside support in the FCFCA, we also experience these cross-jurisdictional challenges. Lack of clear information about which service is best equipped to protect victim survivors in crisis and provide easy access to legal protection is hard to find for those supporting people who have experienced violence as well as those seeking support.

Case Study 2: Sylvia

Sylvia presented to FASS Intake service at the FCFCA. She was seeking support for family violence that was being perpetrated by her former partner, her parents and her brother.

Sylvia was distressed, overwhelmed and struggled to communicate.

Sylvia explained that she was living in emergency accommodation and was receiving support from a generalist support service, but no specialist support in relation to family violence.

She had come to the FCFCA for support to apply for a state-based FVIO against her brother. The FASS staff member explained that she would have to go to the Magistrates' Court for this. This further distressed Sylvia. The FASS worker was able to explain, with the support of a telephone translator, the process in the Magistrates' Court. However, Sylvia was so overwhelmed she was unable to go to another court that day and was not prepared to speak to the police, who she strongly believed would side with her family and make her return to them.

The FASS Safe Steps team played a critical role in this case: seeking an interpreter and sharing information about the work of the FCFCA as distinct from the Magistrates' Court. However, this support ended at the door of the FCFCA, when Sylvia left distressed and alone, to face another legal structure that she found confusing and impenetrable.

³ Easteal, P., Bartels, L., Dodd, S., & White, J. (2022). A jurisdictional collision? Responses to family violence and family law in the ACT. *Alternative Law Journal*, 47(1), 23-29. <https://doi.org/10.1177/1037969X211054217>

3. How Family Violence Orders could be more accessible for victims of violence going through the family law system.

This submission highlights some of the accessibility difficulties for people who have experienced family violence. In Safe Steps' experience, people from culturally and linguistically diverse backgrounds, and those with disability face additional barriers. Safe Steps' FASS staff report that people also need a range of supports including cultural liaison (especially for people from Aboriginal and Torres Strait Islander backgrounds); and support reading and completing forms (especially people whose first language is not English).

All services are similarly stretched to capacity and need to put limits on the number of people they can support. Information about court processes and the different responsibilities of each jurisdiction is critical for people who don't have access to support services. Without this information, they are vulnerable to further abuse.

4. Any other reform that would make it safer and fairer for victims of violence in the family law system who need the protection of Family Violence Orders.

Safe Steps practitioners report that systems abuse, or abuses of process are a mechanism by which people using violence can weaponise the court system against a person who has experienced violence. As with other types of violence and controlling behaviours, there are multiple impacts of this kinds of abuse. Systems abuse compounds when multiple jurisdictions are being used and the various responsible authorities (for example courts and law enforcement) don't interact.

Safe Steps sees situations where people "play" the system knowing that a breach in one jurisdiction will not be taken into account in another. The following case study provides a recent example of this:

Case study 3: Bree

Bree separated from John because of family violence [REDACTED].
Bree agreed to parenting orders but reported feeling coerced into the orders.

[REDACTED] John did not return Jack home, and has now applied for parenting orders to have Jack live permanently with him.

Bree sought assistance from a local family violence service. She also spoke with Victorian child protection authorities about her concerns regarding John's parenting capacity. Child Protection expressed reluctance to intervene, saying the existing FCFCA parenting orders took precedence and needed to be followed in relation to contact between John and Jack.

Bree and John also have "cross" state-based FVIOs against each other. The evidence to support John's FVIO has never been tested as it was granted in an online Magistrates' Court hearing, during a COVID lockdown.

Police have responded to a number of FVIO breaches reported to them by Bree. But John refused to appear at court, triggering a warrant for his arrest. John continues to act in disregard for these orders and evade arrest. The police and Magistrates' Court can do nothing except relist hearing dates, which John then ignores.

Bree has not been able to use any of the information about John's lack of respect for the state-based order in the FCFA parenting case. Additionally, she is unable to access legal aid, while John's prior employment with a public service entity entitles him to subsidised legal support which he is using to further disempower Bree.

There are several ways that John is using the legal system to perpetrate abuse against Bree. With subsidised access to legal support he is able to launch the parenting application in the FCFA, in the knowledge that there will be no consequences in the FCFA for the breaches of the state-based FVIO.

Conclusion

Safe Steps is grateful for the opportunity to comment on the barriers for people seeking safety through the FCFA. While our experience is limited to the Victorian context, our case studies illustrate some of the ways family and domestic violence continues throughout and following FCFA matters. Additionally, differences in jurisdictional roles and responsibilities can be complex and further disempowering for people who have experienced violence.

Based on our experience, we urge the Committee to consider:

1. Mechanisms that could support people who have experienced family violence who are applying for recovery orders, especially where there is a state-based protection order in place.
2. Mechanisms that would encourage better information sharing between courts and other authorities sharing responsibilities for families, children and family and domestic violence. This would also provide a more trauma informed approach – not requiring the victim survivor to have to re-tell their experience multiple times to multiple audiences.
3. Increased resources for people who are unrepresented, and/or require additional legal information because of language or cultural barriers.
4. Mechanisms that would reduce the capacity of people who have used violence against family members to use the justice system to perpetrate systems abuse against family members.