

## Monitoring the Family Violence Reforms Submission from the Magistrates' Court of Victoria July 2020

The Royal Commission into Family Violence made 227 recommendations to transform the way Victoria responds to family violence. Of those, the Magistrates' Court of Victoria (MCV) is leading the implementation of 26 recommendations. Since the recommendations were handed down in 2016, MCV has built upon the work completed to strengthen the justice system response for victim survivors of family violence. The major reforms moved from policy design to implementation with the delivery of a digitally enabled court response, fit for purpose facilities that prioritise the safety of victim survivors attending court, improved perpetrator interventions and initiatives, as well as training and development for our frontline and specialist staff.

### **How has the family violence service system changed since the Royal Commission?**

What are the major changes you have seen in the family violence service system since the Royal Commission into Family Violence made its final report and recommendations in 2016?

#### **Specialist Family Violence Courts**

The Victorian Government invested \$130 million over four years in the 2017/18 State Budget for MCV to implement new initiatives and support broader court reform for those experiencing family violence. This funding commitment included both capital and operational funding to create five new Specialist Family Violence Courts (SFVCs) across Victoria. This investment has resulted in modern, purpose-built facilities in five court locations - three established and two forthcoming - to improve the safety and experience of court users. The infrastructure upgrades include safe waiting areas and interview rooms, separate court room entrances for victims, remote witness facilities, and child friendly spaces.

The delivery of Victoria's first SFVC in Shepparton on 9 October 2019 marked a major step towards a safer court experience for families living with violence. Since then, SFVCs have commenced in Ballarat and Moorabbin with further SFVCs to open in Heidelberg and Frankston. The five SFVC Divisions retained the features of the Family Violence Court Division (FVCD), including related matters being heard together and specialist court staff, and extended the service delivery model to include:

- daily capping on the number of cases heard;
- additional funding for a specialised family violence team, which includes specially trained magistrates, court registrars and family violence practitioners;
- increased places in men's behaviour change programs to hold perpetrators accountable;
- enhanced learning and development program for staff which includes a focus on pre-court engagement, early identification and referrals to appropriate services; and
- integration of services at the court with a wider set of family violence services.

In adopting a victim-centred approach to matters involving family violence, the SFVC operating model represents a significant shift in the way courts and the justice system respond to family violence. The model is informed by six core principles and has been shaped by the MCV's considerable experience of family violence specialisation. The model includes more staff specialised in family violence (both legal and non-legal) and access to support services. A significant focus is to achieve greater consistency in family violence functions across courts and between service providers which includes:

- expansion of the Family Violence Contact Centre (FVCC) to provide support to the five SFVCs, with the aim of diverting family violence calls and emails from the SFVCs to the FVCC and reducing the pressures on court registry at these SFVC locations;
- stronger focus on learning and development for judiciary and staff specialised in family violence, including multi-disciplinary training which has brought workers from across the sector to share a consistent message and approach resulting in a better experience across the system;
- integration of Umalek Balit at three of the five SFVC sites (currently at Shepparton, and will be expanded to Ballarat and Heidelberg) as part of the comprehensive family violence response; and
- greater collaboration with government and community sector agencies at a central level and within the SFVC regions. This includes robust SFVC governance arrangements at the central and local levels as well as a greater focus on information sharing between agencies.

### **Koori family violence**

The Royal Commission recognised culturally appropriate services have the potential to make a significant contribution toward the long-term goals of Aboriginal and Torres Strait Islanders families. This included a pilot to extend the jurisdiction of the Koori Magistrates' and County Courts to include offences where it is alleged that a family violence intervention order has been contravened. The Mildura Koori Magistrates' and County Courts commenced hearing contraventions of intervention order matters in May 2019.

Umalek Balit, which means Give Strength in Woivurrung, is a dedicated service that includes women's and men's practitioners who work with Aboriginal women and men to guide them through the court experience and offer culturally relevant, non-legal expertise regarding family violence matters. The service was launched at Melbourne Magistrates' Court in November 2018 and expanded to Mildura Law Courts in May 2019. The service was also integrated into the new SFVC at Shepparton and will be expanded to Ballarat and Heidelberg Magistrates' Courts. It has been co-designed with Aboriginal communities to support self-determination and builds on a previous program, the Koori Family Violence Victim Support Program, that operated from Melbourne Magistrates' Court from 2011-2016. A *Cultural Safety Professional Development Plan* is being rolled out at the Moorabbin and Frankston SFVCs, which will assist these courts in adopting culturally sensitive approaches to the handling of Koori matters.

Since the establishment of Umalek Balit, the dedicated Koori practitioner services have enhanced safety and improved perpetrator interventions. This includes the introduction of flexible support packages for affected family members which provides tailored financial and safety support and keeps clients engaged with their practitioners over a longer period of time. There is also a greater level of integration with men's support services to meaningfully engage with perpetrators.

### **Perpetrator interventions**

Magistrates at the SFVCs can make orders for perpetrators to attend a men's behavioural change program through the Court Mandated Counselling Order Program (CMCOP). CMCOP builds on

Family Safety Victoria's Minimum Standards and includes enhanced service delivery for perpetrators and affected family members such as more thorough risk assessments and new processes to support sustainable behaviour change. It also provides more opportunities for group programs, more individualised supports to address barriers to behaviour change and improved monitoring processes to drive better outcomes.

There has been improved sector wide collaboration in the perpetrator interventions space. For example, recently during the COVID-19 pandemic, there has been strong collaboration between the Magistrates' Court, Family Safety Victoria, Corrections Victoria and No to Violence to develop the Service Guidelines – for perpetrator interventions in the COVID-19 context. This ensured that there was a consistent response from the sector about the approach to perpetrator interventions while there was limited access to in person group work during the COVID-19 pandemic. This collaboration demonstrates a growing level of sophistication in the sector and ultimately improved capacity to keep perpetrators in view, hold them to account and promote accountability.

### **Digitally enabled court experience**

A new version of the online Family Violence Intervention Order (FVIO) application form has been made available statewide for victims of family violence. The online form is available via a dedicated webpage ([www.fvio.mcv.vic.gov.au](http://www.fvio.mcv.vic.gov.au)) or directly through the MCV website which allows for submissions anywhere internet accessibility is available. This has increased accessibility for those applying for an intervention order, particularly those in rural or regional communities. As of July 2020, over 2000 applications have already been commenced or submitted to court online.

MCV has operated a growing Family Violence Contact Centre (FVCC) since May 2018 which currently services eight court locations. The FVCC has established a centralised unit to manage family violence and personal safety intervention order enquiries (phone calls and e-mails) in both the Magistrates' and Children's Court jurisdictions servicing Melbourne, Shepparton, Heidelberg, Sunshine, Dandenong, Ringwood, Geelong, and Frankston (e-mails only). The current eight locations collectively take approximately 9,000 enquiries per month and respond to over 100,000 enquiries per annum. The main achievements of the FVCC include:

- calls are answered within 22 seconds on average (which includes an initial recorded message);
- 98 per cent of calls have a first time resolution, with only around 15 calls out of every 1000 returned to the local court, generally for a local service clarification;
- operating beyond court hours (8.00am-5.30pm), meaning that email prioritisation, particularly from overnight contact, to triage for local courts occurs before courts open;
- established warm transfer referral relations with other services including the Orange Door, Victoria Legal Aid, Umalek Balit and Court Network; and
- continued to build inter-governmental relations.

In July 2019, MCV commenced a pilot of remote hearing capabilities in the Barwon region. The pilot enables family violence victim survivors to participate in their court hearing via video conference at a location other than the court. Remote hearings aim to minimise trauma associated with face-to-face interactions, reduce the risk of violence at court and increase family violence victim survivor's choice as to how they participate in their court process. In June 2020 an independent review of the pilot found it:

- gave affected family members greater choice as to how they participated in the court process;
- was welcomed by affected family members with a take-up rate reaching 85% and overwhelmingly positive feedback on the service;

- delivered the desired outcomes of improving safety for affected family members, whilst minimising trauma resulting from face-to-face interactions with the respondent and/or the respondent's supporters at court;
- was unanimously supported by family violence system agencies, who agreed the service provided significant benefit to affected family members; and
- should be expanded across the State using a staged implementation approach.

### **Integrated sector response**

MCV continues to play an active role in supporting and implementing whole of government reform initiatives. There have been significant improvements to information sharing and assessing risk as a result of the development and implementation of the MARAM framework. Since the introduction of the MARAM framework in September 2018, MCV has worked with agencies across the family violence sector to develop processes, procedures, practice guidance and risk assessment tools to align to the framework.

To support the Family Violence Information Sharing Scheme (FVISS), a dedicated team was formed to facilitate the free flowing of information between multiple government agencies and community service organisations across the family violence system. MCV is the largest responder to information sharing requests in the FVISS, responding to approximately 2000 requests per month. MCV also participates in the Central Information Point, which provides perpetrator risk information to the Orange Door family violence service. Demand for information requests continues to grow each month with the commencement of the children and family law information sharing schemes and the rollout of new Orange Door locations.

### **How has the experience of accessing services and support changed since the Royal Commission for victim survivors, including children, and perpetrators of family violence?**

Please share specific examples or case studies where possible. NB: Please ensure when you are providing case examples that individuals are not identified.

Access to family violence services and support has changed significantly since the Royal Commission. The major changes to the service response include:

- the provision of choice for affected family members who participate in the court process, which includes separate waiting areas, remote hearing and in-court safety. Affected family members and respondents also receive more information about attending court;
- the availability of the online Family Violence Intervention Order (FVIO) application form, giving victim survivors greater choice in how they apply for a FVIO;
- family violence matters heard by specialist magistrates at all headquarter courts, to provide a trauma informed court experience;
- increased number of registry roles which allow the court to provide more specialised services. There have also been increased practitioner roles at court which means parties have greater access to support at court and referral pathways to local, specialised services;
- new Koori and LGBTIQ+ practitioners to ensure diverse communities who are experiencing family violence have access to appropriate support. There is also increased awareness of the issues faced by diverse communities with specialised training for court staff;
- improved facilities to encourage safety and collaboration. This includes the safe waiting areas at various court locations which ensures the victim survivor's safety is prioritised whilst at court;
- 'one family, one magistrate' service model aspiration at SFVCs, to reduce the trauma of attending court multiple times;

- enhanced perpetrator interventions and referral pathways which includes additional places on men's behaviour change programs which seek to meaningfully engage with perpetrators; and
- integration with support services which means there is greater support and efficiency in sharing risk related information.

### **Case Study: Koori Women's Family Violence Practitioner**

Koori Family Violence Practitioners are part of Umalek Balit, the dedicated Aboriginal and Torres Strait Islander service established in response to Recommendation 149 of the RCFV. This case study was collected from information provided by a Koori Women's Family Violence Practitioner in September 2019.

*The affected family member named Fiona\* meets with the Koori Women's Practitioner after being referred by police following a family violence safety notice being issued the day before.*

*Fiona explains she had been in a relationship with Brian\* for 3 years and they have one child together, Abby\*, aged 2. Fiona has issues with her memory following a head injury she sustained following Brian assaulting her. She explained that throughout the course of their relationship Brian would hit her in front of Abby, control her by isolating her from family and friends, and make threats to harm their dog and would damage property. Brian had been charged with unlawful assault following the police attending and issuing Brian with a family violence safety notice. Fiona has had enough of Brian's behaviour and no longer wants to be in a relationship with him.*

*After the initial consultation, the Koori Women's Practitioner makes sure Fiona understands the court process and conditions of the intervention order and highlights the importance of her contacting the police if Brian breaches the order. Next the practitioner works with Fiona on safety planning and refers her to a women's family violence service and provides a list of other community services. She also advises that she may be eligible for Victims of Crime Assistance (VOCAT) to assist with recovering personal items as a result of the offences committed against her and Abby.*

*The Koori Women's Practitioner continues to support Fiona throughout the course of the intervention order matter as well as the VOCAT process if she wishes to proceed with an application.*

*\*Note: Names have been changed.*

### **Case Study: Remote Hearing Pilot**

The Remote Hearing Pilot was established in response to Recommendation 71 of the RCFV. The pilot enables family violence victims to participate in their court hearing via video conference at a location other than a court building, and aims to reduce the risk of violence at court, minimise the trauma associated with face-to-face interactions and increase family violence victims' choice as to how they participate in the court process. This case study was collected in August 2019.

*Police had taken the initial intervention order on behalf of the AFM and the AFM was applying for a five-year extension to the order. The respondent had persistently breached the intervention order and on one occasion, called the AFM more than 600 times over a three-day period. The respondent was on bail for related criminal charges and the AFM was extremely fearful of the respondent.*

*The Remote Hearing Applicant Practitioner had contact with the AFM prior to the hearing and undertook further risk assessment on the date of hearing. The AFM arrived at the remote hearing location at 9.30am and was able to speak to the Police Family Violence Liaison Officer via video link by 10am. The AFM's matter was heard by video conference shortly after 10am.*

*The AFM had a 4-week-old newborn and was able to return to her baby within the hour. As the AFM left the remote location, she advised that she felt much more comfortable and that the remote hearing was much less stressful than the other occasions where she has had to attend court.*

## **Looking forward – what is still required in the family violence reforms**

**What are the most critical changes to the family violence service system that still need to occur?**

The Royal Commission has provided an opportunity to examine the family violence system from the ground up, work alongside the sector and put victim survivors at the centre of the reform. However, there are a number of critical changes within the family violence service system which need further work. These critical changes include:

- appropriate resourcing across all courts for court staff and family violence sector agencies to allow for courts to appropriately respond to increasing family violence demand and provide a best practice response. This includes safe and accessible facilities across all courts statewide;
- expansion of the SFVC Division and increased access to specialist family violence services at all headquarter court locations across the state;
- expansion of the court's online intervention order application service, to enable victim survivors to lodge applications to extend, vary or revoke existing FVIO orders electronically as well as other enhancements to the online service, such as the creation of an online re-declaration capability and auto narrative creation. The re-declaration capability will remove the need for paper based Affidavits to re-declare the initial application where changes are required;
- continued expansion of the Family Violence Contact Centre to provide dedicated and accessible court family violence information across Victoria, centralising administrative functions which are currently performed without standardisation across Magistrates' Court locations;
- increased funding for capability uplift, learning pathways and wellbeing support across the state to allow for specialisation;
- continued commitment to greater service integration between and across agencies and with the Victorian community. This includes greater focus on prevention and early intervention, further raising community awareness, and strengthening local level governance;
- greater integration between local Orange Doors, local courts and the other local support services, to reduce the number of services that clients need to speak to when seeking advice;
- inclusive services which recognise the needs of diverse communities such as the LGBTIQ+ community and considering ways appropriate support is built into the early stages of police presentation and intervention order application order process;
- increase perpetrator accountability to bring about long term, sustainable change. This includes more options for perpetrator accountability, and better mapping and understanding of the perpetrator's use of violence such as the intersection between alcohol use and violence. This will reduce the risk of reoffending and increase the safety of victim survivors and families;
- improved housing options for LGBTIQ+ victim/survivors fleeing violence who often have a lower proportion of crisis accommodation available to them;
- introduction of learning programs which include content that is informed by the principles of narrative therapy and restorative justice. These have been developed with the view to

improve long-term outcomes and healing in their recovery from family violence through story sharing and the lived experience of others;

- expansion of Umalek Balit to other locations where a need has been identified in supporting the Aboriginal and Torres Strait Islander community in addressing family violence;
- increased capacity and support for dedicated Koori family violence practitioners to perform their roles. This would also assist in providing outreach to other court locations where there is no Umalek Balit service; and
- legislative changes and increased funding support for a statewide Courts Remote Hearing Service Network Model are necessary to fully rollout the remote hearing pilot.

### Are there any parts of the family violence reform that have not yet progressed enough and require more attention?

There are a number of reform areas which need to be further progressed:

- expansion of the SFVCs and CMCOP across the state;
- expansion of a centralised family violence contact and administrative centre across the state;
- provision of diverse and inclusive services across the state;
- greater attention to the needs of children and young people;
- men's behaviour change programs expanded to the LGBTIQ+ community which extends to mandated court orders (e.g. Intervention Orders, Undertakings);
- family violence programs for women who are identified as the primary aggressor (including for both cis-gender and transgender women);
- increased access to support programs and therapeutic groups for victim survivors from the LGBTIQ+ community
- sector-wide understanding of risk assessment approaches such as MARAM and information sharing, as well as improved documentation to support risk assessment; and
- improved accessibility to applicable training for client-facing and leadership staff to enhance knowledge and capability within their specialist area and other areas within the sector.

### Are there any improvements be made to the implementation approach of the family violence reforms?

There is further work to be done to increase innovation and new approaches to drive continuous improvements which includes:

- shift to video contact with clients rather than face-to-face within the court space;
- altering how clients are identified and referred for support services;
- improve ways contact is made with other teams within the court for critical information;
- increase connectivity with teams and family violence staff to improve the service response; and
- greater community representation in decision making for diverse communities.

## Impact of the COVID-19 pandemic

What has been the biggest impact of the COVID-19 pandemic on your organisation or sector?  
How have the services that your organisation or sector provides had to change?

Throughout the pandemic, all 51 courts have remained open and MCV has taken measures to reduce the number of people inside court buildings and ensure physical distancing requirements are adhered to.

During this time, all interim FVIO applications have been heard within pre-COVID-19 timeframes and high-risk family violence matters continue to be prioritised.

The biggest impact of the COVID-19 pandemic has been on court operations. The following services have had to change in response to the pandemic:

- suspension of the Koori Court;
- SFVC Listings Policy have been suspended due to required changes in court operations;
- the time frames for Heidelberg and Frankston to commence as SFVC Divisions were impacted and may be delayed. Furthermore, the gazetted SFVCs are unable to fully operate the SFVC Model under the COVID-19 response;
- access to the safe waiting area was impacted at the operations SFVCs due to physical distancing and the split team working arrangements;
- suspension of face-to-face groupwork by men's behavioural change program service providers;
- family violence practitioner support is provided via phone. With telephone work, it is not possible to assess body language cues, and it is harder to build trust with new clients; and
- sectoral responses have required on-line delivery of support for affected family members and respondents with mixed efficiencies and timeliness of response across the service sector.

Has COVID-19 highlighted any strengths or weaknesses in the family violence service system?

There are a number of strengths and weaknesses in the family violence service system which have been highlighted by COVID-19.

### Strengths

- three new SFVC sites have experienced better relationships and adaptability between the teams who work together across the sector to create change and work together to ensure the best outcomes for family violence court users;
- clients can now lodge their intervention order application online;
- sectoral responses have required on-line delivery of support for affected family members and respondents with mixed efficiencies and timeliness of response across the service sector; and
- adaptability and collaboration between organisations to effectively respond, such as the collaborative development of the *Service Guidelines – for perpetrator interventions in the COVID-19 context*, a framework for keeping perpetrators in view during COVID-19.

### Weaknesses

- withdrawal of duty lawyer services and support agencies on site has resulted in a large proportion of parties not having access to timely justice and has contributed to the large backlog of cases and may have impacted the safety of victim survivors; and
- the rapid move to a work-from-home model for court staff created challenges with accessing of online form applications submitted to court, due to challenges associated with

the shift to staff personal computer usage and accessing court portals located on court networks (general access consistency).

Are there any changes resulting from the COVID-19 pandemic that you think should be continued?

The COVID-19 pandemic has demonstrated new ways for the courts to respond to family violence. There are a number of changes made during COVID-19 which should continue:

- with the increased use of video technology, more victim survivors can be offered a choice in how they appear at their court hearing, and can appear virtually if they choose to do so;
- move towards a model of early engagement (i.e. prior to the court hearing day) which leads to better outcomes for those affected by family violence;
- technology capability uplift to support remote engagement such as WebEx court hearings and the Online Magistrates' Court and online application service expansion; and
- collaborative platforms such as Microsoft Teams has enabled inter-agency dialogue and meetings to continue without substantial disruption to collaborative efforts and may have improved efficiency in some areas (e.g. less need for travel and agency down time).