

16 October 2025

The Hon Justice Janine Pritchard  
Supreme Court of Western Australia  
Barrack Street  
PERTH WA 6000

Via Community Legal Western Australia (CLWA)

Dear Judge,

**Re: Family and Domestic Violence Legal Workers Network (FDVLWN) Western Australia (WA) Submission to Review of Courts and Tribunal Services**

**Background to the FDVLWN**

The WA Family and Domestic Violence Legal Workers Network (FDVLWN) welcomes the opportunity to make this submission to the review of Courts and Tribunal Services.

The FDVLWN is comprised of members of legal assistance services operating in Western Australia (WA). The FDVLWN provides a mechanism to coordinate systemic advocacy, training and reform for the Community Legal Centre (CLC) sector. The FDVLWN shares information, promotes and organises professionals to assist building the capability of Network members, and leads the preparation of submissions relevant to the Network.

The FDVLWN is convened by Women's Legal Service WA (WLSWA). WLSWA is a specialist gender-specific community legal centre, providing services to women around WA who are financially disadvantaged, prioritising women experiencing family, domestic and sexual violence (FDSV). In addition to poverty and FDSV, WLSWA clients often live with multiple vulnerabilities which create additional barriers to accessing justice. WLSWA aims to empower women to make informed choices and participate fully in legal processes that impact them and their children. WLSWA also advocates for women's rights to be upheld and fosters social change through education and policy reform.

FDVLWN member CLCs offer a range of legal services, including:

- specific FDSV services for women;
- representation to Applicants and Respondents to Family Violence Restraining Orders (FVRO)s;
- representation for Family Law matters;
- Criminal Injuries Compensation matters;
- Protection and Care matters;
- representation to clients in Criminal matters;
- Consumer Credit and Financial Abuse matters; and
- many other areas of law that intersect with FDSV.

Collectively, our organisations have significant knowledge and practical experience relating to the experiences of victim-survivors and perpetrators of FDSV and their legal and support needs.

**Acknowledgments**

We acknowledge the Traditional Owners of the country on which WLSWA staff live and work, the Whadjuk people of the Noongar nation, and pay our respects to their Elders past and present.

We also endorse this statement from the National Plan to End Violence against Women and Children 2022-2032:

*Victim-survivors must be at the heart of solutions. Victim-survivors have specific and contextual expertise that comes from lived experience of abuse and violence. They have intimate firsthand knowledge of services,*

*systems, and structures that are meant to support them but have sometimes failed them. They know from experience the weaknesses and strengths of interventions in practice (p68).*

We cannot develop effective solutions to FDSV without the input of the people most affected by it.

### Foundational principles

Please note that our submission to Review has been guided by the following underpinning principles:

- A demonstrated and ongoing need for a systems approach to responding to FDSV including consistent and appropriate support for the victim-survivor throughout the process.
- Prioritising access to legal assistance for victim-survivors, including legal assistance to help navigate intersecting legal issues, from when a victim-survivor is considering whether to report their issue, through to the end of their legal matters.
- A need for an approach which is culturally secure, trauma-informed, and consistent across Australia.
- The need for service responses to consider a dedicated/bespoke and appropriate regional/remote response which is culturally safe for Aboriginal and Torres Strait Islander Peoples. Such responses should have overall relevance for WA, as well as other parts of Australia through service delivery in very remote areas.
- The importance of acknowledging the nuances of responding to the needs of clients with intersectional experiences of FDSV, including gender diverse or queer clients or clients in non hetero-normative relationships, clients from culturally, ethnically, linguistically, or faith diverse communities, clients who also have additional needs relating to their mental health or dependence on alcohol or other drugs, clients with disabilities, clients who need literacy supports and many others.
- Ongoing legislative reform which retains a focus on broader cultural change and systems reform towards having trauma-informed, culturally safe and gendered violence-informed systems – with the purpose of both increasing conviction rates through the criminal justice system, as well as improving other outcomes for victim-survivors.

### Formulating the FDVLWN response

The FDVLWN has consulted with lawyers and policy staff across the WA Community Legal Centre (CLC) sector and has built on work previously undertaken by Women’s Legal Services Australia (WLSA) and other submissions to government by the FDVLWN. Our focus in preparing this submission has been in considering situations where Court processes occur in the context of FDSV and where opportunities for improvements to access to justice, safety and efficiencies exist.

We recognise that many of our members have independently prepared submissions to this Review. We support their views and endorse their recommendations.

The FDVLWN again thank you for the opportunity to prepare this submission. We are heartened by the commitment of the Western Australian and Australian Governments towards increasing the safety of vulnerable women and their children, particularly in the context of FDSV. However, we contend that significantly more needs to be done, and hope that this work will go some way to achieving this. The Network would be grateful for any opportunity to clarify any of the concerns raised in this submission, and offer additional practical support and advice on in any reform activities that the Department undertakes as a result of this Review.

Yours Sincerely,

**Dr Monica Cass**

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## FDVLWN submission to the Review of Courts and Tribunal Services

Problem description e.g. delay, inefficiency, accessibility	Impact on access to justice and vulnerable clients	Potential solutions
<p><b>REQUIREMENTS FOR FDSV-RELATED MATTERS TO BE DEALT WITH SEPARATELY AND IN SILOS ACROSS FAMILY COURT, RESTRAINING ORDER AND PROTECTION AND CARE JURISDICTIONS</b></p> <p><b>Victim-survivors of FDSV frequently need to navigate multiple Courts for related issues, leading to inconsistent outcomes, duplicative or conflicting processes and often a lack of legal means to prevent violence</b></p> <ul style="list-style-type: none"> <li>• Clients are being informed in the Magistrates Court that they cannot put children on the FVRO, and that Family Court orders need to be made. When they attend at Family Court, they are told to return to the Magistrates Court.</li> <li>• There is inconsistent practice relating to this. Some Magistrates will put children on Restraining Orders, others will not.</li> <li>• The Family Court does not currently hear FVRO matters when Family Law matters are on foot. Clients are almost invariably sent to the Magistrates Court.</li> <li>• Family Court Magistrates will routinely issue Injunctions but will not issue interim or final FVROs, leaving parties with no police assistance/enforcement/breach action in the instance of a breach of the Family Court injunction, versus police responsibility and impetus to act in the event of a FVRO breach.</li> <li>• Family Court will not list and hear same day or even same week FVRO applications. Victim-</li> </ul>	<p><b>Impact on clients in general:</b></p> <ul style="list-style-type: none"> <li>• Victim-survivors of FDSV frequently find themselves in multiple Courts due to the exact same situation and behaviours from their abuser.</li> <li>• Currently, victim-survivors are effectively caught in an unspoken jurisdictional battle between Family Court and Magistrates Court Magistrates regarding who should issue FVROs. This adds to the enormous emotional and time resources and toll involved in bringing applications in either Court.</li> <li>• In addition to Family Court, FVRO, Protection and Care, victim-survivors could also be navigating Criminal Court as a witness / complainant, tenancy issues, child support issues, immigration issues and debt, on top of trauma, moving house and poverty.</li> <li>• Applicants with a FVRO that includes themselves but not their children are often left without any kind of Order that restricts the behaviour of the Other Party in relation to their children.</li> <li>• People who use violence frequently use this complex system as an opportunity to further abuse their ex-partner and children.</li> <li>• Clients do not always fully understand the distinction between breaches to FVROs, Protection Orders, Family Court Orders, Bail conditions or Community Based Orders. This makes it difficult for them to report breaches, and the person breaching is not held to account.</li> </ul>	<p><b>Solutions:</b></p> <ul style="list-style-type: none"> <li>• Family Court to issue FVROs, utilising its existing powers.</li> <li>• Magistrates Court to consistently include children on Interim FVROs if requested, utilising its existing powers.</li> <li>• Improve pathways, or explore alternative models to better enable Respondent parents to apply for a FVRO against another Party, when this is required by the Children’s Court.</li> <li>• Improve information sharing between Children’s Court, Family Court and Magistrates Court regarding children, to enable Magistrates Court to more confidently include children on FVROs.</li> <li>• Review and simplify legislation and information sharing processes governing intersecting jurisdictions to better enable safety for victim-survivors of FDSV when navigating the Family Court system.</li> <li>• Introduce clearer pathways for integrated case management and enable better data sharing (with appropriate privacy protections) between Courts, police, child protection, and legal services.</li> <li>• Explicit communication from the Family Court that it will not list and hear urgent FVRO applications, or will not routinely issue interim or final FVROs, so that Magistrates Court Magistrates stop directing victim-survivors to the Family Court to apply for urgent FVRO relief.</li> </ul>

<b>Problem description</b> <b>e.g. delay, inefficiency, accessibility</b>	<b>Impact on access to justice and vulnerable clients</b>	<b>Potential solutions</b>
<p>survivors in need of urgent FVRO protection are always directed to the Magistrates Court.</p> <ul style="list-style-type: none"> <li>• There is no clear policy direction from the Family Court that they will not list and hear FVRO applications and that these should be heard in the Magistrates Court. When Magistrates in the Magistrates Court consistently send victim-survivors to the Family Court, it would appear that they are unaware of the policy.</li> <li>• There is no mechanism for a fast response from the Family Court to act in response to a breach from a Family Court injunction.</li> <li>• Lack of interoperability between Courts and agencies delays justice and increases risk.</li> </ul>	<ul style="list-style-type: none"> <li>• The onus is on the victim of a breach of Family Court injunction to draft, file, serve and wait for listing and hearing of an injunction application.</li> </ul> <p><b>Impact on access to justice or legal practice:</b></p> <ul style="list-style-type: none"> <li>• Needing to pursue legal protections through multiple Courts for the same family is time consuming, expensive and largely unnecessary.</li> <li>• Where FVRO matters are settled by way of Conduct Agreement Orders, there is no finding of family violence. FVRO Applicants will need to argue the same matter again in the Family Court.</li> <li>• Respondents to Protection and Care matters may be required by the Court to take out a FVRO in order to retain access to their children.</li> </ul> <p><b>Impact on intersectional needs:</b></p> <ul style="list-style-type: none"> <li>• Applicants who are Aboriginal, are immigrants, have disabilities, mental health concerns, or are gender or relationship diverse may have a personal history of Courts that is highly traumatic, and navigating these systems could be particularly challenging.</li> </ul>	<ul style="list-style-type: none"> <li>• Explore options for a single jurisdiction model in the Family Court, noting that the Family Court already has jurisdiction across most of these areas already, but systematically does not utilise these powers.</li> <li>• If such a model is deemed most appropriate, it should appropriately balance the challenge of having the Department of Communities as a Party to the proceedings in Family Court or Restraining Order matters, which could potentially result in unfair or inappropriate outcomes for parents and children.</li> <li>• Any future model should specifically emphasise the need for the Family Court to effectively hold breaches of Family Court orders to account.</li> <li>• Any future model should be fully supported by a team of FDSV case workers who can work in a way which is culturally safe, trauma-informed, and child-centred.</li> <li>• Any future model should include duty lawyers who are specifically trained and experienced in responding to FDSV matters.</li> <li>• Any future model should include a variation to proceedings which is more culturally appropriate for Aboriginal families.</li> </ul>
<p><b>FAMILY COURT – ACCESS TO PARENT CONTACT CENTRES</b></p> <p><b>Clients are being unnecessarily required to request a Family Court Order to access Family Contact Centres.</b></p> <ul style="list-style-type: none"> <li>• Within the wider context of high demand for supervised contact at Family Contact Centres,</li> </ul>	<p><b>Impact on clients in general:</b></p> <ul style="list-style-type: none"> <li>• Time and cost involved in an unnecessary application to the Family Court.</li> <li>• Delay to parents having supervised time with their children.</li> </ul>	<p><b>Solutions:</b></p> <ul style="list-style-type: none"> <li>• Family Court to be aware that this situation is causing delays.</li> <li>• General need for more resources for Family Contact Centres.</li> <li>• Explore alternatives to Family Contact Centres.</li> </ul>

<b>Problem description</b> <b>e.g. delay, inefficiency, accessibility</b>	<b>Impact on access to justice and vulnerable clients</b>	<b>Potential solutions</b>
<p>centres are prioritising clients who have an order from the Family Court and/or a Parenting plan.</p> <ul style="list-style-type: none"> <li>Where both parties have agreed to supervised parenting time, they are being required to apply for a Court order unnecessarily, or to lodge an interim Parenting Plan.</li> </ul>	<p><b>Impact on access to justice or legal practice:</b></p> <ul style="list-style-type: none"> <li>Unnecessary use of resources.</li> <li>Delay to other issues within the matter, or access to the service by other clients.</li> <li>Unnecessary use of judicial and Court resources.</li> </ul> <p><b>Impact on intersectional needs:</b></p> <ul style="list-style-type: none"> <li>Unfairly favours parents with sufficient monetary and practical resources to apply for and obtain the order.</li> </ul>	
<p><b>FAMILY VIOLENCE RESTRAINING ORDERS – DELAY TO FINAL ORDER HEARINGS</b></p> <p><b>Time to Final Order Hearings in Family Violence Restraining Order matters is excessively long</b></p> <ul style="list-style-type: none"> <li>Time to Final Order Hearings is excessively long, particularly via trial.</li> <li>Note that in general, that this issue mostly benefits Applicants, as this usually extends stricter conditions.</li> </ul>	<p><b>Impact on clients in general:</b></p> <ul style="list-style-type: none"> <li>Where there is misidentification, or cross-applications, this delay can be dangerous to the victim-survivor of FDSV.</li> <li>The delay causes ongoing uncertainty, animosity, interferes with recovery, can prolong more strict conditions unnecessarily. This can increase risk of serious harm or death.</li> <li>The delay may make client vulnerable to pressure from the Respondent to withdraw their application, or to agree to a Conduct Order with less stringent safety conditions.</li> </ul> <p><b>Impact on access to justice or legal practice:</b></p> <ul style="list-style-type: none"> <li>Respondents may be unfairly delayed.</li> <li>Long delays are expensive. In CLCs, staff turnover means that over time multiple lawyers will need to consider the matter.</li> </ul> <p><b>Impact on intersectional needs:</b></p> <ul style="list-style-type: none"> <li>Aboriginal women are more commonly misidentified as a perpetrator, and may be particularly harshly impacted.</li> </ul>	<p><b>Solutions:</b></p> <ul style="list-style-type: none"> <li>Scheduling more Magistrates to Final Order Hearings.</li> </ul>

<b>Problem description</b> <b>e.g. delay, inefficiency, accessibility</b>	<b>Impact on access to justice and vulnerable clients</b>	<b>Potential solutions</b>
	<ul style="list-style-type: none"> <li>• Clients with English as a second language, or who are disadvantaged may have difficulty with multiple lawyers. They may move house during these long periods, creating opportunities for paperwork issues.</li> </ul>	
<p><b>FAMILY VIOLENCE RESTRAINING ORDERS – LIMITED ACCESS TO MENTION HEARINGS</b>  <b>When requesting a mention hearing for FVRO these are frequently listed as Final Order hearings</b></p> <ul style="list-style-type: none"> <li>• Where a Mention Hearing is required (such as for a variation or objection), it is frequently listed as a Final Order Hearing.</li> <li>• This requires all Parties and their legal representation to prepare for or wait for a Final Order Hearing prior to the Parties having an opportunity to attempt to resolve the issues.</li> <li>• Delays for Final Order Hearings also causes delays in Variations Applications on Interim Restraining Orders.</li> <li>• This is particularly dangerous when variations are needed to reflect changes in address, or other changes in circumstance.</li> </ul>	<p><b>Impact on clients in general:</b></p> <ul style="list-style-type: none"> <li>• Neither Party has an opportunity to resolve issues prior to the Final Order Hearing.</li> <li>• If a location for "daycare" or "school" or "second residential address" is not included in the Interim FVRO or in the event a Magistrate does not make an order, the Applicant will need to wait until the Final FVRO Hearing for a Variation to be made.</li> <li>• As FVRO Applicants may need to move residences multiple times due to FDSV, these addresses will change.</li> </ul> <p><b>Impact on access to justice or legal practice:</b></p> <ul style="list-style-type: none"> <li>• Although the hearing is effectively a Mention Hearing, lawyers are required to prepare for a Final Order Hearing unnecessarily.</li> <li>• Multiple Final Order Hearings may ultimately be listed.</li> <li>• Applicants may find themselves unprotected by the FVRO, or breaches may not be recognised.</li> <li>• A Final Order may be granted, but the conditions may ultimately be unsafe, or not be the most appropriate for the situation, as sufficient time was not given to resolve the issues.</li> </ul>	<p><b>Solutions:</b></p> <ul style="list-style-type: none"> <li>• Registry to list Mention Hearings accurately.</li> <li>• Improve processes to access Mention Hearings to hear variations to listed addresses, and resolve other administrative or otherwise urgent issues prior to the actual Final Order Hearing.</li> </ul>

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	<b>Impact on intersectional needs:</b> <ul style="list-style-type: none"> <li>For Aboriginal people who live in remote areas, their residence may change to reflect periods living in town, or visiting relatives for funerals or other reasons.</li> </ul>	
<p><b>RESTRAINING ORDERS – INCONSISTENT RESPONSE TO REQUEST FOR EXTENSIONS TO CONDUCT AGREEMENT ORDERS</b></p> <p><b>Currently some Magistrates will hear applications for and make orders for extension of a CAO, on the basis they are to be treated as a final FVRO. Other Magistrates refuse to do this.</b></p> <ul style="list-style-type: none"> <li>There is no consistency in Magistrates treatment of Conduct Agreement Orders. Currently some Magistrates will hear applications for and make orders for extension of a CAO, on the basis they are to be treated as a final FVRO. Other Magistrates refuse to do this.</li> <li>Magistrates have been noted to openly disagree with their colleagues on this issue in front of victim-survivors.</li> <li>The high level of variability makes it challenging for lawyers to provide advice to clients.</li> </ul>	<p><b>Impact on clients in general:</b></p> <ul style="list-style-type: none"> <li>If a Magistrate refuses to hear an application for extension of a CAO, the Applicant must wait for their existing CAO to expire before the Magistrate will hear an application for a new FVRO.</li> <li>Alternatively, the Applicant is required to cancel their CAO before the Magistrate will hear an application for a new FVRO.</li> <li>The Applicant remains unprotected until the new FVRO and made and served (this is often several weeks by the time police serve a new FVRO).</li> <li>This is traumatic, expensive, time consuming and usually unnecessary.</li> </ul> <p><b>Impact on access to justice or legal practice:</b></p> <ul style="list-style-type: none"> <li>Where Magistrates are openly disagreeing with their colleagues on this issue in front of victim-survivors, it creates a poor impression of the Restraining Order system.</li> <li>Lawyers need to provide advice to clients regarding the variability of Magistrate’s opinion on this issue, rather than on the merit of the case, or other issues.</li> </ul> <p><b>Impact on intersectional needs:</b></p> <ul style="list-style-type: none"> <li>Regional clients are more vulnerable to a single Magistrate who may never hear an extension.</li> </ul>	<p><b>Solutions:</b></p> <ul style="list-style-type: none"> <li>Practice directions regarding the issue of whether a CAO can be extended.</li> <li>Education for Magistrates and lawyers once it has been clarified.</li> <li>Note, the FDVLWN are supportive of the capacity of Magistrates to extend a CAO, as this is the safest, cheapest, least traumatic option for Applicants.</li> </ul>

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<p><b>FAMILY COURT – FDR NOT AVAILABLE FOR MATTERS INVOLVING FDSV</b></p> <p><b>For FDR matters where there is family, domestic and sexual violence, Family Court practice currently requires all to go to trial (without exemption).</b></p> <ul style="list-style-type: none"> <li>• In general, FDR is not usually appropriate for situations where one party has subjected the other to FDSV.</li> <li>• In some situations, an exemption is appropriate.</li> <li>• There are currently very few exemptions granted.</li> </ul>	<p><b>Impact on clients in general:</b></p> <ul style="list-style-type: none"> <li>• Clients are required to wait, and attend Family Court instead of the quicker, simpler and cheaper FDR alternative.</li> <li>• This can sometimes have the effect of escalating post-separation abuse.</li> </ul> <p><b>Impact on access to justice or legal practice:</b></p> <ul style="list-style-type: none"> <li>• Delays to Family Court matters can be expensive, require changes to representation over time.</li> </ul> <p><b>Impact on intersectional needs:</b></p> <ul style="list-style-type: none"> <li>• Vulnerable clients are particularly impacted by the formal nature of the Family Court, and may be fearful of attending, or of the outcomes.</li> </ul>	<p><b>Solutions:</b></p> <ul style="list-style-type: none"> <li>• Increase the range of circumstances where an exemption can be made for FDR in situations where one Party has used FDSV against their partner.</li> <li>• Such circumstances might include where a dedicated FDSV-responsive legal service is supporting the victim-survivor and they request an exemption, where the abuse was not severe, nor ongoing, the other Party has legal representation, and there are no other matters in other jurisdictions.</li> <li>• Note, we do strongly support the policy currently in place that FDR is usually not appropriate where one Party has subjected the other to FDSV.</li> </ul>
<p><b>CRIMINAL COURTS / FAMILY COURT – UNDERSTANDING MENS BEHAVIOUR CHANGE PROGRAMS</b></p> <p><b>Judicial Officers do not consistently distinguish between Men’s Behaviour Change Programs (MBCPs) for FDSV and other types of programs.</b></p> <ul style="list-style-type: none"> <li>• In making sentencing decisions, Family Court decisions, final restraining orders, or Protection and Care orders, Judicial Officers are recognising a range of programs as evidence of rehabilitation during a pre-sentence/interim period prior to final orders or sentencing.</li> <li>• Programs might include Anger Management, AOD rehabilitation, Healing programs or Parenting programs.</li> <li>• Although these programs may have utility for specific circumstances (e.g. emotional regulation,</li> </ul>	<p><b>Impact on clients in general:</b></p> <ul style="list-style-type: none"> <li>• This impacts victim-survivors of FDSV, who may be either applicant or respondent in Family Court or FVRO matters, or a complainant in a Criminal Matter.</li> <li>• Note that this does not tend to apply to Respondents in Protection and Care matters, as the Department of Communities will require a MBCN as appropriate.</li> <li>• People who use violence can be seen to ‘get away with it’, based on credit given for attending an online course that is only tangentially related to their offending.</li> <li>• Note that it can be difficult to access MBCPs due to long wait lists, particularly in some areas.</li> </ul>	<p><b>Solutions:</b></p> <ul style="list-style-type: none"> <li>• When considering the impact of rehabilitation efforts on likelihood of FDSV-related reoffending, Judicial Officers should expect that people who use violence attend a dedicated Family Violence Behaviour Change Program.</li> <li>• Expanded funding for MBCPs to improve access.</li> </ul>

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<p>AOD addition), there is no evidence that these programs will change FDSV behaviour.</p> <ul style="list-style-type: none"> <li>AOD programs are usually prioritised over MBCPs, but too frequently are left out of program requirements.</li> </ul>	<p><b>Impact on access to justice or legal practice:</b></p> <ul style="list-style-type: none"> <li>When considering the Risk Needs Responsivity model of interventions for men who use violence, we know that these programs have significantly less impact on FDSV-specific re-offending. Hence they have little impact on recidivism and it is inappropriate for them to be considered as rehabilitative in sentencing, or other decisions.</li> </ul> <p><b>Impact on intersectional needs:</b></p> <ul style="list-style-type: none"> <li>Access to culturally appropriate MBCPs is particularly difficult, especially in regional and remote areas.</li> </ul> <p><b>Case example:</b>  <i>“Offender was convicted of persistent family violence offences. During sentencing, defence counsel stated offender had attended an online parenting course and an online emotional regulation course. Although the attendance at these courses was discussed in some detail several times, neither the Judge, Defence or Prosecution noted that these courses were not specific to FDV and were likely to be ineffective at rehabilitating this specific kind of behaviour.”</i></p>	
<p><b>CRIMINAL SENTENCING - NEED FOR CONSISTENCY IN S63 RESTRAINING ORDERS</b>  <b>Section 63 Restraining Orders are not consistently used by Magistrates during sentencing of FDSV criminal matters</b></p> <ul style="list-style-type: none"> <li>S63 Restraining Orders are an efficient use of Court time and are usually protective of victims in criminal matters.</li> </ul>	<p><b>Impact on clients in general:</b></p> <ul style="list-style-type: none"> <li>Victims of crime are required to undergo further trauma and administrative hassle to take out a FVRO, while in the meantime their safety is compromised.</li> </ul>	<p><b>Solutions:</b></p> <ul style="list-style-type: none"> <li>Policies and procedures ensuring s63 is utilised more frequently.</li> <li>Training for Judicial Officers to ensure consistent and appropriate trauma-informed, safe practice.</li> </ul>

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<ul style="list-style-type: none"> <li>Application of s63 orders is inconsistent across Magistrates. Prosecution is similarly inconsistent in requesting them.</li> </ul>	<p><b>Impact on access to justice or legal practice:</b></p> <ul style="list-style-type: none"> <li>Judicial and legal resources are needed for an additional Court matter, which is largely unnecessary.</li> </ul> <p><b>Impact on intersectional needs:</b></p> <ul style="list-style-type: none"> <li>This is particularly problematic in some regional areas where if a single Magistrate does not use them, then all victims of FDSV-related crime will be required to apply for a FVRO.</li> </ul>	
<p><b>RESTRAINING ORDERS - ACCESS TO FVROs IN REGIONAL AREAS</b></p> <p><b>Limited access to same day hearings for FVRO applications in regional Courts and for online applications</b></p> <ul style="list-style-type: none"> <li>It is frequently difficult to have an application heard on the same day in regional Courts. Magistrate may be out on circuit or may not have time.</li> <li>Where an application is made online, there is not an option to request to have the matter heard on the same day. You cannot check the dates prior to completing the application.</li> </ul>	<p><b>Impact on clients:</b></p> <ul style="list-style-type: none"> <li>Regional applicants may need to stay in town for longer to wait for a hearing date, which may be at their cost, and may mean they remain in an unsafe situation.</li> <li>Delay in interim orders can place women and children at significant risk, particularly where firearms or stalking behaviours are involved.</li> </ul> <p><b>Impact on access to justice or legal practice:</b></p> <ul style="list-style-type: none"> <li>Some applicants may withdraw their FVRO, or not apply in the first place.</li> </ul> <p><b>Impact on intersectional needs:</b></p> <ul style="list-style-type: none"> <li>This particularly impacts Aboriginal women in regional areas where there is poor access to the internet and no Court Registry.</li> </ul>	<p><b>Solutions:</b></p> <ul style="list-style-type: none"> <li>A dedicated Magistrate to hear urgent FVROs on the same day and who can also hear urgent FVROs for the regions where the resident Magistrate is unavailable.</li> <li>Introduce appropriate triaging mechanisms to ensure that urgent FVRO's or child safety concerns are priorities for interim protection.</li> </ul>
<p><b>PROTECTION AND CARE ORDERS – DELAY TO TRIAL</b></p> <p><b>Time to trial for Protection and Care matters is unacceptably long</b></p>	<p><b>Impact on clients:</b></p> <ul style="list-style-type: none"> <li>Clients may be unable to have their children returned to them for a long period.</li> <li>Disruption to children when they are returned.</li> <li>Trauma from time in care.</li> </ul>	<p><b>Solutions:</b></p> <ul style="list-style-type: none"> <li>Resource allocation towards trials.</li> <li>Resource allocation towards legal representation for trials.</li> </ul>

<b>Problem description</b> <b>e.g. delay, inefficiency, accessibility</b>	<b>Impact on access to justice and vulnerable clients</b>	<b>Potential solutions</b>
<ul style="list-style-type: none"> <li>Where a Protection Order is contested, there is an unacceptably long wait until the matter is heard by trial.</li> </ul>	<ul style="list-style-type: none"> <li>Clients may choose to simply give up, despite their case having merit.</li> </ul> <p><b>Impact on access to justice or legal practice:</b></p> <ul style="list-style-type: none"> <li>There is limited access to, and affordability of Barristers with relevant Protection and Care expertise.</li> <li>Long delays are expensive and time consuming.</li> <li>Client may need to interact with multiple lawyers over long periods.</li> </ul> <p><b>Impact on intersectional needs:</b></p> <ul style="list-style-type: none"> <li>Aboriginal families are over-represented in the Protection and Care System. A lengthy wait for trial, and attendance at trial may mean long periods of travel or changes to living circumstances.</li> </ul>	
<p><b>RESTRAINING ORDERS – INTERSECTION WITH FIREARMS ACT</b></p> <p><b>Where Respondents hold firearms licences for professional purposes, FVRO applications are required to go to trial</b></p> <ul style="list-style-type: none"> <li>Where a Respondent to a FVRO holds a firearms licence for professional purposes, such as a farmer or police officer, matters are more likely to go to trial, or alternatively an applicant is coerced into withdraw the application.</li> <li>This is exacerbated by the very long wait for FVRO trials.</li> </ul>	<p><b>Impact on clients in general:</b></p> <ul style="list-style-type: none"> <li>Clients remain under pressure from the Respondent to withdraw the application.</li> <li>Note, this more likely impacts Respondents.</li> </ul> <p><b>Impact on access to justice or legal practice:</b></p> <ul style="list-style-type: none"> <li>Delays to trials are expensive and time consuming. Multiple lawyers may need to become involved over time.</li> </ul> <p><b>Impact on intersectional needs:</b></p> <ul style="list-style-type: none"> <li>Aboriginal men who use firearms for cultural practices may be particularly impacted.</li> </ul>	<p><b>Solutions:</b></p> <ul style="list-style-type: none"> <li>Re-purposing resources to ensure time to trial is shorter.</li> <li>Note, that FDVLWN is not advocating for changes to the Firearms Act to remove the protections to victim-survivors of FDSV under this Act. Rather, we support a faster resolution of matters where this issue is relevant.</li> </ul>
<p><b>LIMITED FDSV-RELATED SUPPORT SERVICES AND FDSV-INFORMED PRACTICE IN COURT PROCESSES ACROSS ALL LEGAL JURISDICTIONS</b></p>	<p><b>Impact on clients in general:</b></p>	<p><b>Solutions:</b></p> <ul style="list-style-type: none"> <li>Embed Family Violence Specialist Workers in all Courts dealing with FDSV.</li> </ul>

<b>Problem description</b> <b>e.g. delay, inefficiency, accessibility</b>	<b>Impact on access to justice and vulnerable clients</b>	<b>Potential solutions</b>
<p><b>Limited support services embedded in Court processes and lack of FDSV-informed responses</b></p> <ul style="list-style-type: none"> <li>• Inconsistent access to legal assistance, video-link, interpreters, and support workers at Court.</li> <li>• Inconsistent FDSV-responsive practice demonstrated by Magistrates, and other lawyers, which is not addressed by Magistrates.</li> </ul>	<ul style="list-style-type: none"> <li>• Lack of access to support services consistently affects vulnerable parties' engagement with the process.</li> <li>• Where Magistrates demonstrate lack of FDSV-responsive practice, they give the impression to the victim-survivor and the person who uses violence that it is acceptable to use violence. They appear to 'get away with it'.</li> </ul> <p><b>Impact on access to justice or legal practice:</b></p> <ul style="list-style-type: none"> <li>• Lawyers and Judicial Officers need to spend time supporting clients with non-legal aspects.</li> <li>• People attend Court with the incorrect form, incomplete documents, misunderstandings of processes, and many other issues.</li> <li>• Clients will attend Court unprepared, without the correct forms or documents, or not attend, and require multiple adjournments, i.e. unnecessary hearing dates.</li> <li>• Matters are more efficiently handled, outcomes are safer, and procedural fairness is improved when decision-makers understand the complex dynamics of violence, coercive control, and trauma.</li> </ul> <p><b>Impact on intersectional needs:</b></p> <ul style="list-style-type: none"> <li>• Poor access to interpreters further delays legal processes.</li> <li>• This issue is particularly relevant in regional areas.</li> </ul>	<ul style="list-style-type: none"> <li>• Support the expansion of specialist FV Courts or dedicated lists, particularly in regional areas.</li> <li>• Consider the development of further permanent specialist family violence lists or courts, with Magistrates who have specific training and experience in FDSV, including in regional areas.</li> <li>• Increased funding for duty lawyers, social workers, interpreters, located at the Courthouse to ensure victim-survivors are getting access and are able to navigate the Court system.</li> <li>• Expand access to interpreters and culturally safe services, especially for Aboriginal and CALD communities.</li> <li>• All Courts dealing with FDSV matters should have: <ul style="list-style-type: none"> <li>○ Separate waiting areas for protected persons and respondents;</li> <li>○ Safety officers or trained Court staff for escorts; and</li> <li>○ Secure entry/exit protocols to avoid victim-perpetrator contact.</li> </ul> </li> <li>• Victim-survivors should have the automatic right to appear via video or audio link for all stages of proceedings, especially Restraining Order matters. This minimises trauma and improves participation rates, particularly for regional women and those fearful of facing perpetrators in person.</li> </ul>
<p><b>FVROs – INCONSISTENT IDENTIFICATION AND SKEPTICAL REVIEW OF CROSS APPLICATIONS</b></p>	<p><b>Impact on clients in general:</b></p> <ul style="list-style-type: none"> <li>• Where a person is a victim-survivor of FDSV, their partner / spouse or ex-partner / ex-spouse can</li> </ul>	<p><b>Solutions:</b></p> <ul style="list-style-type: none"> <li>• Policies and procedures in place to effectively identify cross-applications, sceptically review</li> </ul>

<b>Problem description</b> <b>e.g. delay, inefficiency, accessibility</b>	<b>Impact on access to justice and vulnerable clients</b>	<b>Potential solutions</b>
<p><b>When cross-applications of FVROs are received, Registry are not consistently identifying them, and the response is inappropriate</b></p> <ul style="list-style-type: none"> <li>• Cross applications are not always recognised.</li> <li>• Interim orders are frequently granted to both Parties without a summons to consider the merit.</li> <li>• This can impact the physical safety of a victim-survivor of FDSV.</li> </ul>	<p>take out a FVRO to further abuse, isolate or frustrate them. This can be pre-emptive or retaliatory.</p> <ul style="list-style-type: none"> <li>• This can result in the situation where a victim-survivor is prevented from living in their home with a child, or is at risk of serious harm or death.</li> <li>• Respondents who are victim-survivors of FDSV are not as easily able to access services which have supports needed to adequately address risk of serious harm or death to them or their children.</li> </ul> <p><b>Impact on access to justice or legal practice:</b></p> <ul style="list-style-type: none"> <li>• This takes up Court and lawyer time unnecessarily, and is often a deliberate tactic by an abuser.</li> <li>• Often this action is intended to influence other Court processes, such as Family Court or in response to Criminal charges.</li> </ul> <p><b>Impact on intersectional needs:</b></p> <ul style="list-style-type: none"> <li>• Aboriginal women are particularly vulnerable to misidentification of primary aggressor by police, which provides a basis for the cross application.</li> </ul>	<p>these, summon both parties, identify the primary aggressor and the person needing protection (not automatically grant a FVRO to both parties and ensure both Parties are referred to the relevant and appropriate supports.</p>
<p><b>RESTRAINING ORDERS - INCONSISTENT APPLICATION OF RULES RELATING TO PERSONS PRESENT IN COURT</b></p> <p><b>Magistrates are not consistent in their application of the Restraining Orders Act 1997 regarding support persons and Parties to the proceedings</b></p> <ul style="list-style-type: none"> <li>• Magistrates do not consistently allow support persons to attend Court with FVRO applicants,</li> </ul>	<p><b>Impact on clients in general:</b></p> <ul style="list-style-type: none"> <li>• Some victim-survivors genuinely require a support person in Court with them to reduce trauma. They may not understand why they are not permitted to bring an appropriate support person.</li> </ul> <p><b>Impact on access to justice or legal practice:</b></p> <ul style="list-style-type: none"> <li>• In regional Courts, if a Magistrate has a consistent approach not to allow support persons, there is no alternative for clients.</li> </ul>	<p><b>Solutions:</b></p> <ul style="list-style-type: none"> <li>• Policies and procedures ensuring support persons are allowed under s44D more consistently.</li> <li>• Policies and procedures ensuring that Parties to other proceedings do not remain in Court.</li> <li>• Training for Magistrates and Court Registrars to ensure consistent and appropriate trauma-informed, safe practice.</li> </ul>

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<p>contrary to the Act. This includes case workers from support services.</p> <ul style="list-style-type: none"> <li>Conversely, Magistrates have sometimes allowed inappropriate persons to attend, such as the Respondent’s family members where multiple cross-application FVROs are being sought.</li> </ul>	<ul style="list-style-type: none"> <li>We note that this restriction is appropriate when referring to friends or family members who may be or potentially become a Party to proceedings. However our interpretation of s44D is that it is fully appropriate and lawful for a client support service to attend Court with an Applicant.</li> <li>We note that Regional lawyers or newer lawyers may be reticent to speak out against this practice, particularly where there is a single regional Magistrate.</li> </ul> <p><b>Impact on intersectional needs:</b></p> <ul style="list-style-type: none"> <li>This is particularly challenging for Applicants whose first language is not English, or for Applicants with disability or challenges expressing themselves.</li> </ul> <p><b>Case example:</b>  <i>“Due to lack of awareness, security staff permitted people in the back of Court during an FVRO matter where they were a witness in the proceedings. The person was the perpetrator of FDV and was laughing at our client. The Magistrate did not remove them from Court”</i></p>	
<p><b>UTILITY OF COURT FORMS AND E-COURTS PORTAL</b></p> <p><b>Not all Court forms are user-friendly and appropriate for use, and processes within the e-Courts Portal are not consistent</b></p> <ul style="list-style-type: none"> <li>Many Court forms and e-Courts Portal processes are not fit for purpose, or require changes.</li> </ul>	<p><b>Impact on clients in general:</b></p> <ul style="list-style-type: none"> <li>Forms are not intuitive and are frustrating for clients.</li> <li>Self-represented applicants can find it difficult or confusing to complete. They may then need a lawyer where they wouldn’t otherwise, or alternatively they may not proceed with a matter or respond inappropriately or inadequately.</li> </ul>	<p><b>Solutions:</b></p> <ul style="list-style-type: none"> <li>Review of forms and procedures for e-Courts Portal, including what information is visible when on the record.</li> <li>Some flexibility is required for regional areas or for people who require technological support.</li> <li>This could be resolved easily and cheaply with an appropriately skilled person adjusting the formatting in Court forms.</li> </ul>

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<ul style="list-style-type: none"> <li>• Forms in the Family Court are consistently difficult to complete, due to boxes not being editable, tabs not working, awkward formatting.</li> <li>• E-courts Portal works differently for different types of matters, and is overall not easy to use for lawyers or self-represented applicants.</li> <li>• For example, <ul style="list-style-type: none"> <li>○ There is no facility to go on the record for Restraining Orders;</li> <li>○ Tabs in Court Forms do not work consistently;</li> <li>○ Documents cannot be viewed for Protection and Care matters; and</li> <li>○ There are no specific forms for FVROs, including a notice of address, which raises safety issues.</li> </ul> </li> </ul>	<p><b>Impact on access to justice or legal practice:</b></p> <ul style="list-style-type: none"> <li>• The forms take longer to fill out than necessary.</li> <li>• Forms need to be completed in a certain way, in a certain sequence, in order for them to be completed effectively.</li> <li>• Lawyers cannot always see the information attached to a matter, even when on the record, depending on the matter type. For example, in Protection and Care, a notice of acting can be filed, but the documents are not able to be accessed. However these documents can be viewed for Family Court matters.</li> </ul> <p><b>Impact on intersectional needs:</b></p> <ul style="list-style-type: none"> <li>• Some types of matters can only be lodged via the e-courts Portal, which is not accessible to people who do not have easy access to computers or internet in regional areas. E.g. tenancy matters can only be resolved using the e-Courts Portal.</li> </ul>	<ul style="list-style-type: none"> <li>• FDVLWN members would be grateful for the opportunity to provide detailed input into the fixing of the forms.</li> </ul>