

LAUREL HOUSE

SUBMISSION:

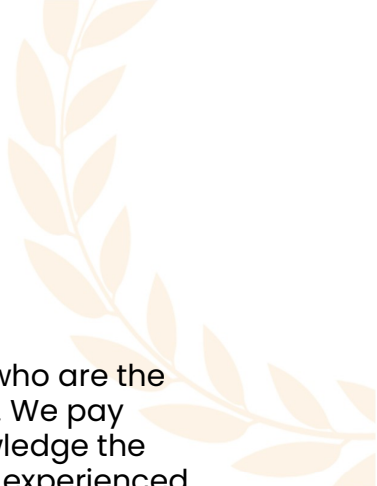
Strengthening Our
Responses to Family
Violence in Tasmania:
Family Violence Act
2004 and Related
Legislation
Discussion Paper

April 2026



Laurel House

SEXUAL ASSAULT SUPPORT
COUNSELLING • EDUCATION • ADVOCACY • CHANGE



Acknowledgement of Country

Laurel House acknowledges and pay respect to the Palawa, who are the Traditional Custodians of the land and waters of Lutruwita. We pay respects to Elders past and present. We particularly acknowledge the resistance and resilience of those Aboriginal people who have experienced sexual violence.

Acknowledgement to Victim-Survivors

Laurel House also honour and acknowledge the victim-survivors of child sexual abuse and other forms of sexual violence. We recognise the immense strength it takes to confront and heal from these traumatic experiences. We commit to amplifying your voices, advocating for change, and standing side by side on the path to healing and recovery.

Disclaimer:

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This document was written by Elise Whitmore (Policy Officer) and Dr. Lucy Mercer-Mapstone (Policy, Advocacy, and Lived Experience Lead) with input from Laurel House staff.

About Laurel House



Laurel House — the North and North-West Tasmanian Sexual Assault Support Service — was established in 1988. Our vision is that everyone acts to prevent and respond to sexual harm, and our purpose is to drive change through counselling, education and advocacy.

We are a not-for-profit, community-based specialist service providing trauma-informed, evidence-based therapeutic support to victim-survivors of sexual assault, as well as their families and supporters. Our services include face-to-face counselling across Launceston, Devonport and Burnie, outreach throughout the North and North-West regions, and 24/7 telephone support, including assistance with police and forensic medical processes.

Laurel House partners with the Tasmanian Government to deliver the Arch Centres—multidisciplinary hubs for victim-survivors. The Northern Arch opened in 2023, and the North-West Arch Centre is in development for opening in February 2026. With Engender Equality, we deliver the Primary Care Family and Sexual Violence program, supporting primary health professionals to better respond to family and sexual violence, including child sexual abuse.

We also provide specialist programs for children and young people displaying harmful sexual behaviours with tailored place-based programs designed for the North and North-West. From 2026, we will partner with Women's Legal Service Tasmania to deliver justice-navigation and restorative justice initiatives under the Commonwealth's new specialised sexual violence legal service pilot.

Our team delivers community education and capacity-building programs focused on preventing sexual harm and strengthening safe, confident responses to disclosure.

Laurel House also plays a key role in policy and advocacy, including through our Lived Experience Engagement Program (LEEP), which centres victim-survivor expertise in shaping our services and broader system reform. LEEP includes trauma-informed advocacy and peer support streams, enabling victim-survivors to influence policy, strengthen organisational practice, and provide connection and validation for others through peer-led support.

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Executive Summary

Laurel House welcomes the opportunity to contribute to the review of the *Family Violence Act 2004 (Tas)* (FVA). As a specialist sexual violence service, our submission focuses on strengthening the capacity of the family violence framework to recognise and respond to sexual violence within family violence contexts. Please [see here for a compiled list of recommendations](#) from this submission.

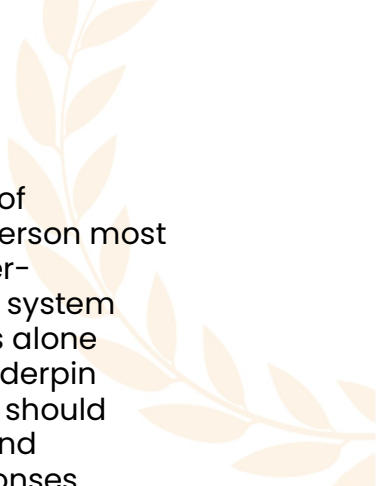
We advocate that the FVO currently reflects a narrow and outdated understanding of family violence relationships that does not align with contemporary evidence, lived experience, or legislative approaches in other Australian jurisdictions. The current framework excludes many victim-survivors experiencing coercive control and sexual violence within extended family, caregiving, chosen family, adolescent relationships, and other relationship contexts characterised by trust, dependency, and power imbalance. Reform is therefore necessary to ensure the Act reflects how family violence actually operates in practice.

A central theme of our submission is that family violence should be understood not primarily through relationship labels or standardised relationship status indicators, but through patterns of coercion, control, dependency, and abuse of power. Sexual violence frequently operates as a deliberate tactic within these patterns and must be explicitly recognised within family violence responses. Strengthening recognition of sexual violence within family violence contexts will improve risk identification, safety planning, and access to protection orders, while supporting more consistent responses across justice and service systems.

Laurel House supports expanding the scope of relationships covered by the FVA to include children as victim-survivors in their own right, extended and intergenerational family members, care and support relationships, LGBTQIA+ relationship dynamics and chosen family structures, casual relationships, Aboriginal kinship, and polyamorous or non-monogamous relationship configurations. These reforms are necessary to ensure that no victim-survivors are not excluded from protection due to reliance on adult-centric, heteronormative, colonial, patriarchal, or outdated relationship tests that do not reflect lived realities.

We also emphasise the importance of embedding an intersectional and trauma-informed framework within the Act. People with disability, Aboriginal people, older people, children and young people, LGBTIQ+ communities, and migrant, CALD and CARM communities experience family and sexual violence in ways shaped by structural inequality, dependency, discrimination, and barriers to help-seeking. Legislative reform must recognise these dynamics to ensure equitable access to protection.

At the same time, we adopt a cautious approach to the introduction of new criminal offences within the family violence framework. While targeted criminalisation can play an important signalling and accountability role in



some contexts, legislative reform must carefully consider risks of unintended consequences, including misidentification of the person most in need of protection, disproportionate impacts on already over-represented marginalised cohorts, and the extension of justice system contact for children and young people. Criminal law responses alone cannot address the structural and relational dynamics that underpin family and sexual violence. Any expansion of criminal offences should therefore occur alongside safeguards, prevention strategies, and investment in education, therapeutic, and service-based responses.

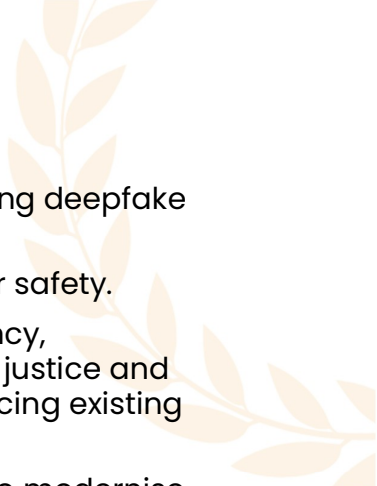
We highlight the importance of aligning legislative reform with sustained investment in specialist service capacity. The specialist family and sexual violence sector in Tasmania, including therapeutic services, justice navigation supports, and specialist legal responses, remains under-resourced relative to the scale and complexity of need and significantly undervalued. Without parallel investment in specialist services, workforce capability, and system coordination, legislative reform alone will not translate into improved safety outcomes for victim-survivors.

There is a particular need for strengthened responses for children and young people who experience family violence and child sexual abuse (CSA). Children must be recognised as victim-survivors in their own right and supported through developmentally appropriate legal, therapeutic, and advocacy pathways. Current system gaps mean that many children fall between family violence, child safety services (CSS), and justice responses, limiting access to timely protection and support.

We identify the need for more coordinated prevention efforts that address both the shared and distinct drivers of family violence, sexual violence, and CSA. Effective reform requires a whole-of-system approach that integrates primary prevention, early intervention, response, and specialist service capability. Legislative reform should therefore be understood as one component of a broader prevention and response framework rather than a standalone solution.

In addition to broadening the scope of relationships covered by the Act, Laurel House identifies several areas requiring strengthened legal and system responses, including:

- improving responses to harmful sexual behaviour within families through therapeutic rather than punitive approaches;
- strengthening recognition of coercive control, including sexualised coercion, across diverse family contexts;
- extending the length and scope of family violence orders (FVOs);
- addressing systems abuse and misidentification of the predominant aggressor within family violence responses;
- expanding the definitions of stalking, bullying, and harassing particularly to capture sexual harassment;

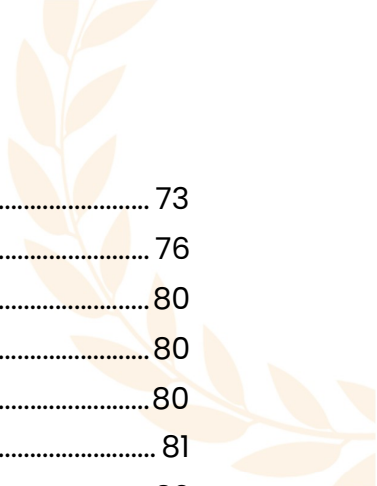
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- strengthening responses to image-based abuse, including deepfake sexual imagery; and
 - improving information sharing to support victim-survivor safety.

Finally, Laurel House emphasises the importance of transparency, independent oversight, and victim-survivor confidence across justice and service systems. Without these safeguards, reforms risk reinforcing existing barriers to protection rather than strengthening them.

Taken together, the reforms proposed in our submission seek to modernise the FVA so that it better reflects contemporary understandings of family violence, improves access to protection for victim-survivors of sexual violence, strengthens responses for children and young people, and supports a more consistent, equitable, and effective response to harm across Tasmania.

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List of Acronyms

ACMS – Australian Child Maltreatment Study
CALD – Culturally and Linguistically Diverse
CARM – Culturally and Racially Marginalised
COI – Commission of Inquiry (into the Government’s Responses to Child Sexual Abuse in Institutional Settings)
CSA – Child Sexual Abuse
CSS – Child Safety Services
DoJ – Department of Justice
DPFEM – Department of Police, Fire, and Emergency Management
FVA – Family Violence Act
FVO – Family Violence Order
HSB – Harmful Sexual Behaviour
LEEP – Lived Experience Engagement Program
LGBTIQA+ – Lesbian, Gay, Bisexual, Transgender, Intersex, Queer/Questioning, Asexual, and other diverse identities
NGOs – Non-Government Organisations
PFVO – Police Family Violence Order
RO – Restraint Order
TASCAT – Tasmanian Civil and Administrative Tribunal

Introduction

Laurel House welcomes the opportunity to contribute to the Family Violence Act Review. As a specialist sexual violence service in north and north west Lutruwita/Tasmania, Laurel House works closely with clients who have experienced sexual violence, including where sexual harm occurs within a family violence context. The focus of our submission is on the sexual violence aspects within family violence contexts. This does not mean that the recommendations we make exclude other family violence dynamics, in fact many of them will address gaps in those contexts as well.

Prevention and Early Intervention

Effective responses to family violence must be grounded in a more coordinated and integrated approach to prevention that recognises both the shared and distinct drivers of family violence, sexual violence and child sexual abuse (CSA). While these forms of violence are interconnected, they are not interchangeable. Each is shaped by specific dynamics, risk factors and pathways, and therefore requires targeted prevention strategies alongside broader, whole-of-community approaches.

This includes strengthening primary prevention efforts that address gender inequality and attitudes that condone violence, while also investing in earlier, more specialised interventions that respond to the drivers and warning signs of sexual violence and CSA, including HSB in children and young people. A more deliberate alignment across prevention frameworks,

service systems and policy responses is required to ensure that gaps between these areas do not persist, and that individuals at risk of experiencing or using violence are identified and supported as early as possible.

Lived Experience Engagement

In preparing this submission, we have consulted with six members of Laurel House's Lived Experience Engagement Program (LEEP) through a focus group held in early February 2026. LEEP advocates who participated in the focus group all had lived experience of both family violence and sexual violence or abuse. We thank all LEEP advocates for their contributions and highlight the importance of genuinely embedding lived experience in all aspects of the FVA Review process.

Laurel House Staff Survey

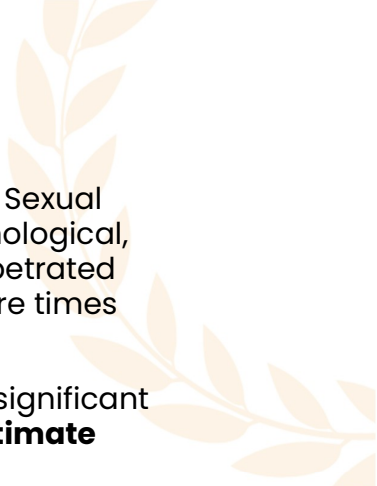
In addition to consultation with LEEP advocates, we also surveyed Laurel House staff members from both our therapeutic and education teams. Staff input is referenced throughout this submission, including through direct quotations, case studies, and in shaping responses to specific questions. It should be noted that many Laurel House staff are also victim-survivors of sexual violence and family violence, and as such many bring both practice wisdom and lived experience. To protect confidentiality, some case studies draw on combined and de-identified staff contributions, and certain details have been altered. However, care has been taken to ensure that these examples accurately reflect the substantive issues they are intended to illustrate.

Laurel House Policy and Advocacy Committee

The Policy and Advocacy Committee is a sub-committee of the Board of Laurel House. Its primary function is to provide expert advice to the Laurel House CEO and Board and to inform and guide delivery of the organisation's policy and advocacy programs. Members of the committee have made valuable contributions to this submission, and we thank them for their time and expertise.

Use of Language

In this document we predominantly use the term '**sexual violence**' to describe acts that involve the use of sexualised behaviour to harm, control, or violate another person. This can include sexual assault, rape, sexual abuse, sexual harassment, or coercive sexual acts. Sexual violence can occur in person or online and may be perpetrated by anyone, including intimate partners, family members, or strangers. At times we use this as interchangeable with '**sexual harm**' as another broad term covering any unwanted sexual act, behaviour, or attempt, including sexual harassment,



sexual assault, grooming,¹ and exposure to sexualised content. Sexual harm encompasses acts that create risk, exploitation, or psychological, emotional, or physical injury. Both these terms include act perpetrated against children and young people and adults, though there are times where we will specify 'child sexual abuse' for clarity.

We acknowledge the FVA current applies to both spousal and significant relationships. For ease of reference, we will refer to these as '**intimate partners**' or 'intimate partner relationships.'

We acknowledge differences in preference between *person-first language* (e.g. "person with disability") and *identity-first language* (e.g. "disabled person"). At Laurel House and in this document, we use this language interchangeably and respectfully, recognising both approaches as valid. We are ultimately guided by how people and communities describe themselves. The language choices in this document do not reject any alternative terms.

Discussion Paper Format

We appreciate the FVA has not been comprehensively reviewed since its enactment over 20 years ago, and that there are a multitude of issues to consider. However, we found the layout of the questions in the discussion paper difficult to address, as there was a high degree of duplication and crossover in the issues being asked about. This difficulty was compounded by the fact the questions were not numbered. For these reasons, some aspects of the discussion paper have been addressed in larger sections, rather than responding to individual questions. Where particular questions are relevant, we have listed those at the start of the applicable section. Where questions or sections were outside the scope of Laurel House's expertise, they have not been addressed or included in this submission.

We also note that, given the breadth of issues canvassed, it may be beneficial for future consultations to be undertaken in tranches rather than through a single, extensive discussion paper. Feedback from across the sector indicates that the discussion paper was cumbersome to navigate and difficult to consult on in a meaningful way. A staged approach would likely improve accessibility, enable more targeted engagement, and support more considered and high-quality responses.

¹ A process of manipulation used to build trust with a child, young person, or vulnerable adult to facilitate sexual abuse or exploitation. Grooming can include giving gifts, isolating the person, normalising sexual behaviour, or exploiting power or authority

Tasmania's Third Family and Sexual Violence Action Plan 2022-2027: *Survivors at the Centre*

Accountability in the implementation of Tasmania's Family and Sexual Violence Action Plan is a critical issue in the context of this submission. The Plan lacks clear accountability mechanisms. In practice, there is no transparent monitoring and evaluation framework, limited public reporting on progress, and inconsistent engagement with the specialist sector. There is also limited visibility as to how actions are being prioritised, delivered, or assessed for effectiveness, including whether they are achieving intended outcomes for victim-survivors.

This risks the Plan operating as a "set and forget" strategy, rather than a responsive, evidence-informed framework capable of adapting to emerging risks, service system pressures, and the lived realities of victim-survivors. Without structured oversight, regular evaluation, and meaningful sector engagement, there is a risk that gaps in implementation persist, opportunities for course correction are missed, and investment does not translate into improved safety or outcomes. Legislative reform under the FVA will only be effective if it is supported by accountable, coordinated, and well-implemented policy frameworks.

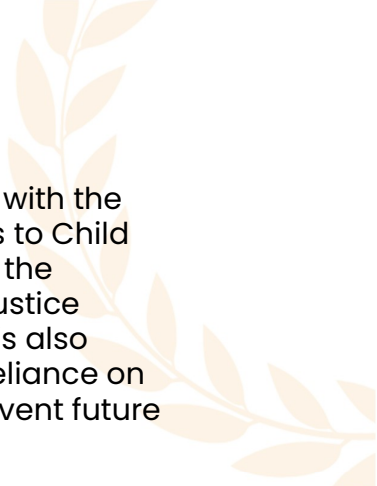
Timeline

While we understand the FVA review is extensive, and will require methodical and careful reform in parts, we hold concerns that draft legislation is not anticipated until the end of 2027. We consider that, given the urgency many victim-survivors face on a daily basis to keep themselves and their children safe, this timeline is unacceptable. We propose, instead, that the FVA be updated in tranches so that uncontroversial and relatively easy amendments can be made first, followed by more complex or nuanced changes. This would be consistent with other recent reforms, including to the *Integrity Commission Act 2009 (Tas)*, or the significant changes made in the federal *Family Law Act 1975 (Cth)*.

Criminalisation and System Responses

Any proposal to expand the scope of the FVA, including to relationships beyond intimate partners, requires careful consideration of its interaction with criminal law responses. While strengthening protections for victim-survivors is critical, there is a need to avoid unintended consequences, particularly where reforms may extend potential criminalisation to children and young people.

Evidence from the Tasmanian Law Reform Institute highlights the risks of over-reliance on punitive responses and the "net-widening" effect of unnecessary engagement with the youth justice system, noting that many young people desist from offending without formal intervention and that responses must be proportionate, developmentally appropriate, and



supported by diversion and therapeutic pathways.² This aligns with the Tasmanian Commission of Inquiry into Government Responses to Child Sexual Abuse in Institutional Settings (COI), which emphasised the importance of limiting children's interaction with the criminal justice system and prioritising therapeutic, preventative responses. It is also consistent with broader reform directions aimed at reducing reliance on detention, recognising that incarceration does not, in itself, prevent future harm.

Criminalisation, and particularly misidentification within family violence systems, disproportionately impacts cohorts already over-represented in legal systems, including Palawa/Aboriginal people, disabled people, people experiencing poverty, and CALD and CARM communities. Groups subject to stigma, including sex workers and people with insecure housing or precarious visa status, may also face heightened bias, increasing the likelihood of misidentification and inappropriate system contact. Expanding the scope of the FVA without safeguards risks reinforcing structural inequities and entrenching pathways into the criminal justice system for those most marginalised.

This submission also acknowledges growing critique of carceral responses within the family and sexual violence sector. Abolitionist perspectives question whether criminalisation and incarceration are effective in preventing violence, noting that increasing penalties without investment in prevention and behaviour change risks perpetuating harm. While this submission does not adopt an abolitionist position, these perspectives are important in assessing whether further criminalisation is necessary, and how to minimise unintended consequences.

² Tasmania Law Reform Institute. (2026). *An evaluation of youth justice system responses to allegations of sexual offending by young people* (Research Paper No. 10). University of Tasmania.

Legislative and policy framework supporting Tasmania's response to family violence

Does the *Family Violence Act* serve the needs of vulnerable groups? Why? Why not? If you think improvements are needed, what are they?

Do you think the *Family Violence Act* should cover more relationships than it currently does? If so, what other relationships should be included?

Should children be protected by the *Family Violence Act* as victim-survivors in their own right? Why? Why not?

Broadening the definition of family violence

The current definition of family violence hinges on an outdated, exceptionally narrow definition of a relationship that does not reflect the broad and diverse realities of family violence situations nor better practice in other jurisdictions. Laurel House strongly supports expanding the scope of relationships covered by the FVA. Family violence is not defined by relationship labels or household arrangements (although those things are relevant in some contexts), but by the **use and abuse of power, control and coercion**, including sexual violence and abuse.

*"In my mind, family violence is about **power and control** and safety within any sort of relationship that involves trust and most of all dependence... Excluding [other] familial relationships can leave victim-survivors without clear legal protection, and it reinforces the idea that some forms of harm within the family are either less serious or less visible."* – LEEP Advocate

Limiting legislative protections to a narrow set of adult intimate partner relationships leaves many people without access to protection or justice despite experiencing the type of serious harm the FVA seeks to address. In doing so, the FVA sends the message that these harms do not matter.

"Family is not limited to a spouse or romantic partner. It includes people connected by blood, marriage, adoption, cultural kinship, or significant family-like bonds. Violence within these relationships can involve physical, emotional, psychological, financial, or coercive behaviours similar to those seen in intimate partner violence. This [expanding the relationships covered] will also avoid gaps, and provide consistency with lived experiences." – Laurel House Employee

Victim-survivors from vulnerable groups and marginalised backgrounds are those who are most failed by this narrow and exclusionary definition. In the following subsections of this section, we demonstrate that the current framing of the FVA is overly dependent on narrow, adult-centric, ableist, colonial, patriarchal, mononormative and heteronormative

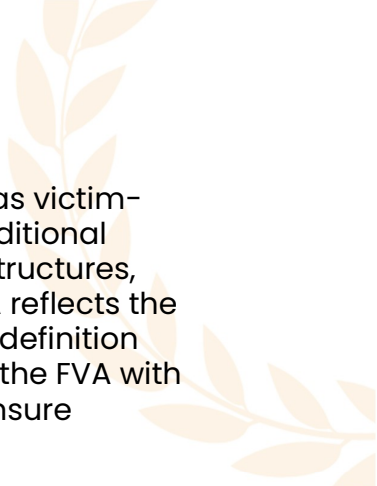
understandings of relationship status, rather than the underlying dynamics of power, coercion and dependency that characterise family violence. This results in inconsistent and inequitable access to protection for victim-survivors whose relationships fall outside traditional legal categories.

National Consistency

Family and sexual violence occurs in a broad range of familial relationships beyond intimate partnerships including but not limited to within sibling relationships, between adult and children relatives (in both directions), between immediate and removed adult family members (e.g., aunts/uncles/cousins etc.), and within blended, intergenerational, chosen, care-based, or stepfamily arrangements. Such relationships are often characterised by entrenched power imbalances related to age, physicality, (dis)ability, gender, dependence, family roles, and authority.

Other Australian jurisdictions explicitly recognise a much broader range relationships within their family violence legislation, allowing courts and police to respond to patterns of coercion and abuse. Lurruwita/Tasmania remains the only jurisdiction in Australia to define family violence so narrowly, resulting in a fragmented and inadequate response to harm within families. Non-exhaustive examples from which we could learn include:

Victoria: <i>Family Violence Protection Act 2008</i>	Section 8 defines “family member” to include current and former intimate partners, relatives by blood, marriage or adoption, and people who are regarded as family under Aboriginal or Torres Strait Islander kinship structures. It also captures relationships that are “family-like,” including where a person provides care to another.
New South Wales: <i>Crimes (Domestic and Personal Violence) Act 2007</i>	Section 5 defines “domestic relationship” to includes current and former spouses and de facto partners, intimate personal relationships, relatives, and people who are living or have lived in the same household. It also expressly covers relationships of dependency, including where one person is dependent on another for care, whether paid or unpaid, as well as Indigenous kinship systems and culture.
Queensland: <i>Domestic and Family Violence Protection Act 2012</i>	Section 13 defines a “relevant relationship,” which includes intimate personal relationships, family relationships and informal care relationships. Family relationships extend to relatives by blood or marriage and are interpreted broadly, including recognition of Aboriginal and Torres Strait Islander kinship structures. Informal care relationships are also covered, where one person is dependent on another for help with daily living activities due to disability, illness or impairment, and the other person provides that care outside a commercial arrangement.



Expanding the definition of family violence to include children as victim-survivors in their own right, extended family members, non-traditional family members, Aboriginal and Torres Strait Islander kinship structures, and relationships of dependence is essential to ensure the FVA reflects the lived realities of harm in Tasmania. A broader, function-based definition that centres power, vulnerability and dependency would align the FVA with contemporary evidence, promote national consistency, and ensure protective mechanisms are accessible to those most at risk.

Recommendations

1. Expand the scope of relationships covered by the FVA

Amend the FVA to replace its narrow framing with a broader, function-based definition that centres power, dependency, trust and control. The FVA should explicitly extend coverage to include:

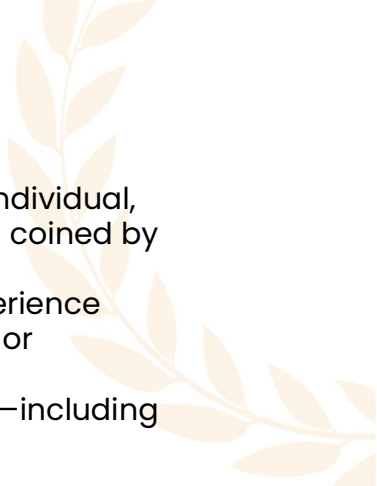
- Children as victim-survivors in their own right
- Extended family members, including siblings, step-relations, intergenerational and blended family arrangements
- Relationships of trust, care and support, including informal and family-based caring relationships, particularly in the context of disability and ageing
- Chosen family and family-like relationships, including queer platonic and other non-sexual partnership structures
- Polyamorous and consensually non-monogamous relationship configurations

The definition should require courts and police to assess the existence of power imbalance, authority, structural dependency, caregiving roles, and coercive control, rather than relying primarily on formal labels such as cohabitation, sexual intimacy, property ownership or financial interdependence.

Intersectionality and the needs of vulnerable groups

The following sections outline responses to the above questions in relation to specific population groups including children and young people, LGBTQIA+ people, people in non-traditional relationship structures, people with disability, older people, CALD/CARM and migrant people, and Aboriginal communities. We address specific considerations to each cohort in turn. Prior to these sections, we provide a definition of intersectionality to frame our understanding of why access to justice and consideration of these communities requires nuance and specific consideration.

Intersectionality refers to the interconnected nature of social identities and lived experiences of marginalisation, and how these intersections



shape people's access to power, privilege, and oppression at individual, community, and societal levels. Intersectionality as a term was coined by feminist scholar and woman of colour, Kimberle Crenshaw. Intersectionality recognises that people do not experience discrimination or privilege based on a single aspect of identity or experience, but in ways which are cumulative and overlapping. Intersectionality highlights that systems of power—including (but not limited to) racism, sexism, ableism, capitalism, colonialism, classism, fatphobia, homophobia, transphobia, xenophobia, and criminalisation—do not act independently, but interlock to create unique and compounding forms of disadvantage and resilience.

Social identities that may experience intersectional oppression can include (but are not limited to): race and ethnicity; Aboriginal and Torres Strait Islander / First Nation; culture; gender identity and expression; sexual orientation; sex characteristics; disability, neurodivergence, and chronic illness; age; class; socioeconomic status; religion or spirituality; nationality, migration, or refugee status; geographic location; family structure and caregiving; and body size.

Similarly, socially stigmatised or marginalised experiences impacting intersectionality can include (but are not limited to): engagement in sex work or other forms of criminalised or informal labour; incarceration or contact with the justice system; drug and alcohol use; mental ill health; homelessness or housing insecurity; family and sexual violence; and institutionalisation or child protection intervention.

Recommendations

2. Embed intersectionality as a statutory principle

Amend the FVA to include an objects and principles clause requiring an intersectional, trauma informed and culturally safe response. The FVA should explicitly recognise that overlapping forms of marginalisation shape risk, help seeking, credibility assessments, access to justice, and system engagement, and require decision makers to consider these factors in exercising powers under the FVA.

Children and Young People – Use of Family Violence by Adult Family Members

Children must be explicitly recognised as people against whom family violence can be committed, not only as witnesses or secondary victims. Sexual violence and child sexual abuse are most frequently perpetrated within family contexts, including by parents, siblings, stepparents, extended family members, and carers. In many cases, the family relationship itself is the mechanism through which access, control and silence are maintained.

While the discussion paper recognises the profound and lifelong impacts of family violence on children, Tasmania's current legislative framework does not consistently allow children to access protections through the Act or justice in their own right.

This gap is particularly stark where sexual abuse occurs outside an intimate partner context, despite clear patterns of coercion, grooming and abuse of authority. Excluding children from the scope of the FVA reinforces a system where sexual harm within families is inadequately addressed and has inconsistent responses.

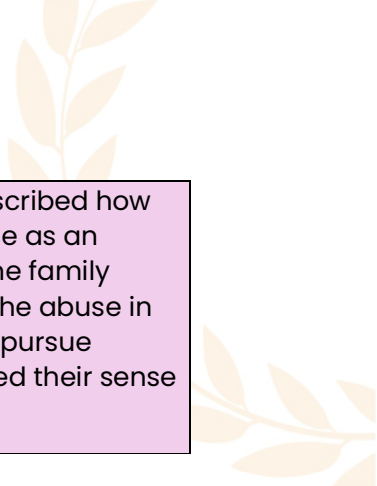
CASE STUDY – Child Experiencing Emotional Abuse

A young LEEP advocate described how the absence of formal recognition of children as victim-survivors under the FVA left them without adequate protection, validation or meaningful intervention when they were experiencing abuse. They explained that because the abuse was predominantly emotional, it was minimised by professionals and not treated as serious. As a result, no protective steps were put in place. They believed that if the system had recognised children as victim-survivors in their own right, their childhood could have been significantly safer and more stable.

They highlighted several key systemic failures during their childhood, which included:

- **Minimisation and invalidation by professionals:** Doctors and staff compared their situation to others “worse than you” and reframed abuse as someone “just being mean,” rather than recognising emotional abuse as violence, with significant cascading implications to wellbeing.
- **Misinterpretation of trauma responses:** Their distress and hospitalisation were not understood as responses to abuse. Instead, their behaviour was medicalised, with speculation about diagnoses rather than investigation of their home environment.
- **Control within institutional settings:** During hospitalisation, only family members, including abusers, were permitted to visit. They had no independent communication, which reinforced isolation and control.
- **Lack of evidentiary standing:** In a household where multiple family members aligned against them, they felt they had no credibility. Without external witnesses or “proof,” their experience did not carry weight.
- **Barriers to justice in adulthood:** Ongoing poverty and the practical demands of work and university made pursuing charges inaccessible. The system required time, money and emotional capacity they did not have.

The “*Australian Child Maltreatment Study*” (ACMS) found that 34.6% of young people aged 16–24 reported experiencing emotional abuse, which is strongly



associated with mental health disorders later in life.³ The advocate described how this early experience of abuse shaped how they understood later abuse as an adult, including sexual violence and abuse, when it occurred outside the family context. Because they had never been able to seek accountability for the abuse in their childhood, it affected their sense of legitimacy and their ability to pursue justice later. Failing to recognise children as victim-survivors entrenched their sense of self-blame, invalidation and long-term vulnerability.

While it is arguable that other legislative mechanisms could have been utilised in relation to the above case study, none adequately intervened or provided protection. Police did not act under any criminal laws, and Child Safety Services (CSS) did not intervene under the *Children, Young Persons and their Families Act 1997*. Had their matter been viewed and acted upon through a family violence lens, it is arguable the dynamics of power, control, and abuse would have been more apparent.

Recognising children as victim-survivors in their own right under the FVA aligns the legislation with the child-centred framework of the United Nations Convention on the Rights of the Child (“the Convention”) and strengthens legal recognition, protection and accountability where family violence is perpetrated against children.

“It’s incredibly dehumanising not having your own rights.” – Young LEEP Advocate

The Convention recognises children as independent rights holders with an inherent right to safety, dignity and protection from violence. Article 19 affirms children’s right to be protected from all forms of physical or mental violence, injury or abuse, including sexual abuse, and Article 34 affirms their right to protection from sexual exploitation and sexual abuse.⁴ Giving children direct standing under the FVA acknowledges their lived experiences of harm within family contexts, rather than treating them only as witnesses or affected persons, and gives practical effect to the rights articulated in the Convention. This approach is also consistent with the Australian Government’s National Plan to End Violence against Women and Children 2022–2032, to which the Tasmanian Government is a

³ Mathews, B., Pacella, R., Scott, J. G., Finkelhor, D., Higgins, D. J., Meinck, F., ... Haslam, D. (2023). *The Australian Child Maltreatment Study: National prevalence of child abuse and neglect and associated mental disorders*. Queensland University of Technology. https://ed16e905-641f-4960-b83f-47aac14c1a79.filesusr.com/ugd/82e052_829178ea2c8c4999bad8a221e0cc10ed.pdf

⁴ UNICEF Australia. (n.d.). *United Nations Convention on the Rights of the Child*. <https://www.unicef.org.au/united-nations-convention-on-the-rights-of-the-child>

signatory, and which recognises children as victim-survivors in their own right and emphasises the need for systems to respond accordingly.⁵

Reliance on other legislative frameworks to safeguard children, including the *Children, Young Persons and Their Families Act 1997*, does not provide adequate protection where sexual violence and other forms of violence are occurring within families. Child protection legislation is primarily focused on statutory intervention thresholds, custody, and supervision orders, rather than the recognition of children as victim-survivors of violence with autonomous rights to safety and protection. These frameworks do not offer equivalent protective mechanisms to Police Family Violence Orders (PFVO) or Family Violence Orders (FVO), nor do they consistently address ongoing coercion, sexual abuse, or the power dynamics that characterise intrafamilial sexual violence. As a result, children may fall between systems, with neither child protection nor family violence legislation providing a timely or appropriate response to sexual harm within family settings.

There is a clear and ongoing gap in the availability of specialist, age-appropriate supports for children and young people who have experienced family violence. Existing services are often designed for adults or are limited by eligibility thresholds, long waitlists, or geographic constraints, leaving many children without timely or appropriate support. Without dedicated resourcing, children and young people risk being overlooked within the broader system response, despite experiencing distinct and often long-term impacts of family violence that require tailored, trauma-informed interventions.

Laurel House staff have experienced child safety services failing to take steps to protect children and young people in circumstances where they view the child as having “self-selected” to be in a relationship that is abusive, or live in a household where they know family violence is occurring. This is especially the case when the young person is 16–17 years of age, and is informally viewed as being able to be developmentally responsible for their own decisions. These assumptions are deeply problematic. They fail to recognise that coercion, manipulation and control are central features of family violence.

No child or young person “self-selects” abuse. Positioning young people as having chosen their circumstances obscures the power imbalance at play, shifts responsibility away from the person using violence, and justifies inaction by Child Safety Services (CSS). In practice, this can result in CSS declining to intervene, or determining that extraction from a relationship or

⁵ Australian Government Department of Social Services. (2022). *National Plan to End Violence against Women and Children 2022–2032*. Commonwealth of Australia. <https://www.dss.gov.au/national-plan-end-violence-against-women-and-children/resource/national-plan-end-violence-against-women-and-children-2022-2032>

household is too complex or resource-intensive. The consequence is that children and young people are left without protective intervention in situations characterised by coercive control and ongoing harm.

Recommendations

3. Establish child standing and participation rights in FVA processes

Amend the FVA to explicitly recognise children as victim-survivors and rights-holders with standing to be protected (not merely “affected children”), including:

- the right to be heard (age and developmentally appropriate)
- access to independent advocacy or a support person in proceedings
- development of, and access to, a witness intermediary scheme
- child-friendly information about orders, conditions, and enforcement pathways.

Children and Young People – Harmful Sexual Behaviour Within Families

We consider that the FVA should cover harmful sexual behaviours (HSB) occurring within extended and non-traditional family structures, but extreme caution needs to be taken in how this is legislated and implemented.

HSB refers to sexual behaviours displayed by children that are developmentally inappropriate, non-consensual, coercive, exploitative, or potentially harmful to themselves or others. HSB differs from age-appropriate sexual exploration in that it involves elements such as power imbalance, use of force or manipulation, secrecy, distress, fear, or harm.

HSB in familial setting can occur between siblings, step-siblings, cousins, and other children within a shared family context. It may also occur where an adolescent uses violence, including sexualised violence, against an adult family member. It’s not uncommon for Laurel House to hear of experiences of violence including sexual violence used by an adolescent son against his mother or other adult women in a caregiving role. These dynamics can cause significant harm and fear within families yet may not always fall neatly within existing relationship categories.

Addressing HSB within families is critical because it sits at the intersection of victimisation, trauma, and the potential for ongoing cycles of harm across the life course. Exposure to family violence and CSA in childhood is associated with increased risk of further victimisation, the emergence of HSB in some children and young people, and the use of family violence in adulthood. These trajectories are not inevitable, but reflect the impacts of trauma, disrupted attachment, and the normalisation of coercion and

control. Evidence also indicates that, for some men, experiences of CSA in childhood are associated with later use of family violence, underscoring the need for early identification and therapeutic intervention.

Excluding these intrafamilial relationships risks creating gaps in protection. Victim-survivors in these circumstances should have access to protective mechanisms under the FVA, including the right to be identified as a victim-survivor of family violence, access to legal and therapeutic services through *Safe at Home*, and in carefully considered circumstances the protection of FVOs. However, expanding coverage of protection for children and young people who have experienced HSB from a child family member must not default to a criminalising response to those who have used HSB.

Contemporary best practice in responding to HSB emphasises therapeutic, trauma-informed, and psychoeducational interventions rather than punitive approaches. Many children and young people who have used HSB have themselves experienced trauma, abuse, neglect, or exposure to violence. Criminalisation can entrench stigma, disrupt developmental pathways, and increase the likelihood of long-term justice system involvement without addressing underlying drivers of behaviour.

If HSB occurring within families is brought within the scope of the FVA, responses must be informed by specialist assessment and evidence-based therapeutic frameworks. Developmental stage, disability, neurodivergence, cognitive capacity, and the child or young person's ability to understand and comply with legal conditions must be carefully considered. Standard family violence mechanisms are not always well suited to these dynamics and should not replace specialist HSB assessment and intervention.

These situations can be highly complex. Without careful consideration of evidence-based best practice in relation to HSB, and a nuanced approach to its inclusion, defining HSB as a form of family violence may lead to unintended consequences for both children and young people who have used HSB and those who have experienced it from a family member. A balanced approach would ensure that victim-survivors are protected and supported, while avoiding unnecessary criminalisation and stigmatisation of children and young people. The potential complexity of these dynamics should not be a deterrent for their inclusion, but it does require careful design of legal services and responses.

Laurel House staff who work primarily in HSB raised several issues in relation to expanding the definition of family violence to include HSB that occurs within family dynamics. These concerns included:

- Children who use HSB should not be treated as a single cohort, with important distinctions between younger children and adolescents (noting for therapeutic purposes, some jurisdictions differentiate children between 0-12, and those between 12-17).

- Expanding family violence responses risks increasing criminalisation and justice system contact for children which is not in the best interest of the child nor in alignment with the recommendations of the COI.
- FVOs may be a blunt instrument for under 18s, particularly given the high risk of breaches where children have limited capacity to understand or comply with conditions.
- Intra-familial cases raise practical challenges, including where children live or attend school together and where child safety systems prioritise family preservation.
- Resulting responses to FVOs may have unintentional negative impacts for victim-survivors who may be removed from schools or familial settings under the guise of protection.
- Much of this conduct may already be addressed under existing criminal or youth justice frameworks, raising concerns about duplication.
- If any order-based response is available, it should be limited to court-made FVOs rather than PFVOs to allow greater scrutiny and nuance.

Ultimately, any reform must prioritise the safety, wellbeing and rights of all children involved. Child victim-survivors who have experienced HSB within their family must have access to meaningful legal protection and therapeutic support. At the same time, children and young people who have used HSB must also be protected from responses that unnecessarily criminalise developmentally driven behaviour or fail to address underlying trauma and harm. All children have a right to responses that are both protective and therapeutic.

Given that a Tasmanian Statewide HSB Framework is currently being developed, it is critical that any inclusion of HSB within the FVA is designed to align with, and not cut across, that emerging framework.

Recommendations

4. Create a therapeutic, non-criminalising FVA response framework for HSB in families

Where HSB occurs within sibling, blended, kinship, or other family contexts, develop an explicit statutory and practice framework that:

- prioritises safety planning and protective mechanisms for the victim-survivor, and
- avoids defaulting to punitive or criminalising responses for children and young people who use HSB, instead enabling therapeutic, trauma-informed interventions and structured service referral.

This should include guidance on when FVOs are appropriate and how to design conditions that do not inadvertently entrench stigma or system contact for children.

5. Align FVA responses to HSB with the Tasmanian Statewide HSB Framework

Ensure that any legislative and practice response to harmful sexual behaviour (HSB) within the FVA is explicitly aligned with, and does not duplicate or undermine, the Tasmanian Statewide HSB Framework being developed by the Department of Children and Young People. This should include:

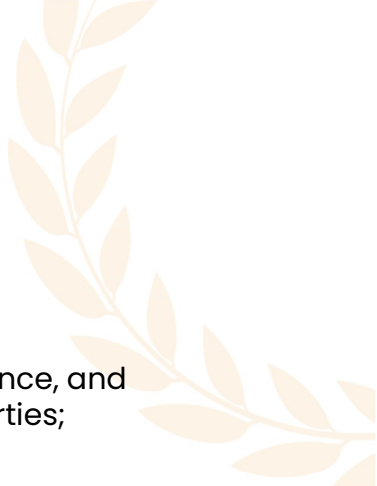
- recognising the HSB Framework as the primary mechanism for assessment, intervention and service coordination in relation to children and young people who have used HSB;
- requiring FVA responses to defer to specialist HSB assessment and therapeutic pathways established under that Framework, rather than defaulting to justice-based or order-based responses;
- ensuring that any use of FVOs in HSB contexts is consistent with the principles, thresholds and practice guidance of the HSB Framework, including developmental, trauma-informed and least-restrictive responses; and
- embedding formal referral pathways and information-sharing mechanisms between FVA systems and HSB services to support coordinated, non-duplicative responses.

Children and Young People – Family Violence in Intimate Relationships

The ACMS found there had been a substantial increase in HSB perpetrated by other adolescents, particularly within romantic relationships. The study also showed internet sexual victimisation (non-consensual sharing of sexual images of the participant; online grooming by an adult), and general sexual harassment online are new and emerging forms of child sexual abuse (CSA).

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Children and young people may be at heightened risk of falling outside the scope of the FVA for several reasons. When determining whether the FVA applies, reference is made to the *Relationships Act 2003*, which sets out in section 4 factors that are relevant to determining if a significant relationship exists. These factors include:

- 
- (a) the duration of the relationship;
 - (b) the nature and extent of common residence;
 - (c) whether or not a sexual relationship exists;
 - (d) the degree of financial dependence or interdependence, and any arrangements for financial support, between the parties;
 - (e) the ownership, use and acquisition of property;
 - (f) the degree of mutual commitment to a shared life;
 - (g) the care and support of children;
 - (h) the performance of household duties;
 - (i) the reputation and public aspects of the relationship.

Given children and young people are, because of their age, less likely to own property, have children, earn income independently, be together for lengthy periods of time, or perform household duties together etc., it is less likely they would be considered in a significant relationship under the *Relationships Act 2003*. This excludes them from being able to access protections under the *FVA*, including FVOs and PFVOs. In practice, this exclusion disproportionately affects children and young people experiencing sexual violence and abuse within adolescent or young adult intimate relationships, where harm often occurs outside cohabiting or financially interdependent arrangements.

*“... [the FVA should be expanded to include] people living in **youth housing** – it’s not just mum, dad, uncle, brother, cousin – there’s also **chosen people**... people [who] live near or in the same vicinity, that **chosen kind of family**, including **roommates**, et cetera.”* – Young LEEP Advocate

Further, many behaviours that characterise contemporary young people’s relationships are not recognised as indicators of a significant relationship under the *Relationships Act 2003*, despite clearly demonstrating intimacy, trust, and ongoing interpersonal connection. Practices such as password sharing, location sharing, shared online spaces, and constant digital communication often reflect a level of emotional closeness and perceived commitment that is functionally equivalent to the forms of intimacy contemplated by the Act, yet remain legally invisible.

As a result, children and young people may be excluded from protections under the *FVA* not because a meaningful relationship does not exist, but because the statutory markers used to assess significance are outdated, ageist, and adult-centric. Recognising digital intimacy and sustained patterns of digital communication as relevant factors, together with reform of duration-based assessments and other adult-centric indicators such as cohabitation, financial interdependence, and property ownership, would

better reflect young people's lived realities and reduce the risk that statutory criteria inadvertently exclude adolescents from protection under the FVA.

As discussed in the section above on HSB, it is also important to recognise that HSB can occur within adolescent intimate partner relationships. Expanding the scope of the FVA to better reflect young people's relationships may mean that some matters involving HSB between adolescents fall within the scope of the FVA. In these circumstances, responses must carefully balance protection for the young person who has experienced harm with developmentally appropriate responses for the young person who has used HSB. Any legal response should therefore operate alongside specialist therapeutic and child safety responses and avoid approaches that risk unnecessarily criminalising children and young people.

Recommendations

6. Remove adult-centric “significant relationship” thresholds for children and young people

Amend the definition of “significant relationship” in the *Relationships Act 2003* to ensure children and young people can access protection regardless of whether adult-centric indicators such as cohabitation, property ownership, financial interdependence or public reputation are present, or specifically account for these types of relationships in the FVA.

7. Recognise digital intimacy and technology-facilitated control

Amend the FVA to recognise digital indicators of intimacy and coercive control, including sustained patterns of communication, location sharing, password sharing and online surveillance, as relevant factors in assessing the existence and nature of a relationship, particularly for young people.

8. Create a child-specific access pathway to protection orders

Amend the FVA to provide a clear, child-centred mechanism for children and young people (including under 16) to seek protection where they experience violence in their own relationships, noting current gaps where protections are limited by age and “significant relationship” thresholds. Where matters involve HSB within relationships, responses should be informed by specialist assessment and developmentally appropriate frameworks, ensuring protection for the child experiencing harm while avoiding default reliance on punitive or criminalising legal responses.

LGBTIQA+ people

While LGBTIQA+ intimate partnerships are technically covered by the FVA, many LGBTIQA+ people also form and rely on chosen family networks that exist outside 'traditional' heteronormative definitions of intimate partnerships and beyond biological or legally recognised relationships. This is often a direct result of homophobia and transphobia. These chosen family structures can be central sources of care, support and interdependence, yet may fall outside the current scope and assumptions of the FVA. These chosen families often involve significant 'queer platonic relationships' which strongly resemble intimate partnerships including shared housing, caregiving, emotional support, and financial interdependence, and function as family in practice. Sexual violence can occur within these relationships of trust and dependency, yet the FVA does not recognise them because they fall outside traditional definitions of "significant relationships". As a result, LGBTIQA+ victim-survivors are excluded from legal protections despite experiencing serious family sexual violence in relational contexts that mirror family dynamics.

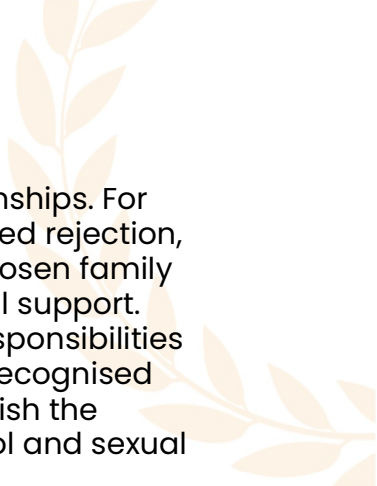
EXAMPLE – Queer Platonic Relationship

Alex (they/them, 32) and Morgan (she/they, 34) identify as asexual and aromantic, respectively. They have been in a queer platonic partnership for eight years. Their relationship does not involve romantic or sexual attraction, but it functions in every practical sense as a life partnership.

They share a home, have joint bank accounts, provide mutual caregiving support, and have named each other as enduring guardians and beneficiaries in their wills. Morgan manages most of the household finances due to Alex's disability, and Alex provides daily emotional and practical support to Morgan, who experiences chronic mental health challenges. They describe one another as "life partners" and are recognised as such within their LGBTIQA+ community.

Over time, Morgan begins to engage in coercive and sexually violating behaviour. Despite both identifying as asexual, Morgan pressures Alex into unwanted sexual contact, framing it as "something partners should do" and threatening to withdraw financial and housing security if Alex refuses. Morgan also isolates Alex from friends, monitors their communications, and uses their financial interdependence to exert control.

Alex experiences fear, humiliation, and escalating coercion but is advised that their relationship may not meet the definition of a "significant relationship" under the *Relationships Act 2003*, as it does not fit within traditional concepts of an intimate partnership. Because their relationship is neither romantic nor sexual in the conventional sense, and they are not legally recognised as partners, Alex is unable to clearly access the protective mechanisms available to intimate partners. As a result, Alex is excluded from legal protections despite experiencing serious sexual and coercive abuse in a relational context that mirrors family violence dynamics.



Chosen family structures are not peripheral or informal relationships. For many LGBTIQ+ people, particularly those who have experienced rejection, discrimination, or exclusion from biological family networks, chosen family is the primary site of safety, belonging, caregiving and material support. These networks often operate with clearly understood roles, responsibilities and expectations that mirror or exceed those found in legally recognised family units. The absence of formal recognition does not diminish the depth of interdependence, nor the capacity for coercive control and sexual violence to occur within these dynamics.

The FVA is limited to intimate partners, excluding non-intimate family relationships altogether. Intimate partnership definitions often rely on having a sexual component which delegitimises non-sexual partnership among people who may be asexual and significant partnership-like relationships in LGBTIQ+ communities such as queer platonic relationships (see case study above). Even if the Act were expanded to include violence perpetrated by other family members, chosen family relationships would remain excluded unless they are expressly recognised. Without specific inclusion, LGBTIQ+ victim-survivors would continue to be denied access to protections under the Act, despite experiencing sexual violence and coercive control within relationships that mirror family dynamics in all but legal recognition.

Recent national data confirms that LGBTIQ+ communities experience disproportionately high rates of sexual violence. The *Private Lives 3* national survey of LGBTIQ+ people in Australia found that sexual violence is both prevalent and often perpetrated by someone known to the victim-survivor, including intimate partners and other trusted individuals. Trans and gender diverse respondents, bisexual women, and young LGBTIQ+ people reported particularly elevated rates of sexual assault and coercive sexual experiences, though it is important to note that many of these experiences are perpetrated by cis men.⁶ These findings reinforce the need for the FVA to explicitly recognise and respond to violence occurring within the relational structures that LGBTIQ+ people rely upon, including chosen family, rather than limiting protection to legally recognised or biologically defined relationships.

Recommendations

9. Recognise chosen family within the definition of family violence

Amend the FVA to ensure that relationships characterised by emotional connection, trust, intimacy, or mutual support are captured within scope, including chosen family structures. Provide that a relevant relationship may be established by the nature and

⁶ Hill, A. O., Bourne, A., McNair, R., Carman, M., Lyons, A., Power, J., & Thomas, M. (2020). *Private Lives 3: The health and wellbeing of LGBTIQ people in Australia*. Australian Research Centre in Sex, Health and Society, La Trobe University.

dynamics of the connection between parties, including relational expectations, and is not limited to relationships that involve cohabitation or formal recognition.

Polyamorous or Non-Monogamous Relationships

The FVA does not consistently serve victim-survivors in non-monogamous relationships such as those involving more than two people or an individual having multiple partners, including polyamorous or non-monogamous relationships. Victim-survivors in polyamorous or consensually non-monogamous relationships may encounter additional barriers when seeking protection due to:

- Stigma, dismissal, and moral judgements about relationships structures
- credibility being undermined due to assumptions about promiscuity
- difficulties evidencing harm within multi-partner dynamics
- heightened isolation where disclosure risks community judgement and exclusion
- different relationship structures not fitting within the narrow definition of an intimate partnership.

These barriers arise not from the FVA wording alone, but from how relationship legitimacy, credibility and harm are interpreted by police, legal practitioners and courts.

Where abuse is predominantly coercive, psychological and emotional rather than overtly physical, evidentiary thresholds for obtaining an FVO can be difficult to meet. This difficulty is compounded when the relationship itself is viewed as unconventional or ‘morally suspect’.

The impact of family violence can be exacerbated for victim-survivors who are migrants in polyamorous or non-monogamous relationships, as the existence of a monogamous relationship is a requirement for some Visas (including a partner Visa), illustrating the importance of an intersectional lens. Lived experience stories heard by Laurel House demonstrate that perpetrators can weaponise this against victim-survivors, by threatening to “expose” the nature of the relationship to authorities and thus have their visa revoked.

Recommendations

10. Recognise polyamorous and non-monogamous relationship structures within the definition of family violence

Amend the FVA to clarify that the existence of multiple or concurrent intimate relationships does not exclude a relationship from

protection. Provide that a “relevant relationship” may exist within polyamorous or consensually non-monogamous contexts where there is emotional connection, trust, intimacy, or relational expectations, and that exclusivity is not required.

11. Address barriers for victim-survivors in polyamorous or non-monogamous relationships

Develop statutory guidance and practice directions to prevent monogamy-based credibility assessments and reduce misidentification of the predominant aggressor in multi-partner dynamics. Training should address stigma, evidentiary challenges in coercive control cases, and systems abuse in non-traditional relationship structures.

Casual Relationships

While casual relationships are not an intersectional cohort in and of themselves, they represent a category of relationship that is inadequately recognised under the FVA, creating particular gaps in protection where sexual violence occurs in short, informal or non-cohabiting contexts.

These gaps are underpinned by an antiquated understanding of what constitutes a “real” or “serious” relationship. Relationships that are ultimately short-term may have been intended by the victim-survivor to be ongoing and meaningful at their outset. Conversely, perpetrators may deliberately utilise short, intense, or non-exclusive relationship dynamics as a mechanism of targeting, rapidly establishing intimacy, trust, and dependency before engaging in coercive and abusive behaviour. The duration, exclusivity, or living arrangements of a relationship do not diminish its significance to those within it, nor do they mitigate the seriousness of sexual violence, coercion, or abuse occurring within that context.

Sexual violence and other forms of violence occurring in casual, dating, or short-term relationships is not consistently captured by the FVA, particularly where there is no cohabitation, and other factors that define a significant relationship under the *Relationships Act 2003* are not met, despite these relationships often involving the same dynamics of coercion, control, entitlement and power imbalance present in longer-term or cohabiting relationships. Victim-survivors of sexual violence in these contexts may be unable to apply for Family Violence Orders (FVOs), or have Police issue a Police Family Violence Order (PFVO) for their protection. In addition, their criminal matters may not be categorised as family violence offences despite representing IPV, which can impact access to options like electronic monitoring of perpetrators while on bail or parole. Other impacts on victim-survivors can include:

- Having to apply for their own Restraint Order (RO), which means being a party in legal proceedings against their perpetrator, and carries a risk of costs being ordered against them if they are unsuccessful (a risk that has been mitigated for family violence victim-survivors in the FVA).
- Police do not have power to issue a RO in similar terms as a PFVO, and while they can technically apply on a victim-survivor's behalf, our experience is that that seldom occurs.
- Reduced or limited access to family violence services and resources, including Safe at Home services.

Recommendations

12. Ensure protection for sexual violence in casual and dating relationships

Create a clear statutory pathway enabling victim-survivors in casual, dating or short-term relationships to access FVOs and police-issued protection without being diverted into the restraint order regime. This should include equivalent police powers and safeguards against adverse costs exposure.

People with disability

Disabled people are disproportionately impacted by sexual violence, including sexual violence occurring within family and family-like relationships, with national data showing significantly higher rates of harm compared to non-disabled populations. The *'Nature and extent of violence, abuse, neglect and exploitation against people with disability Australia'* report found:⁷

- people with disability have a 120% increased risk of sexual violence in comparison to people without disability;
- young women (18-29 years) with disability have a 100% increased likelihood of reporting experiencing sexual violence over their lifetime than young women without disability; and

⁷ **Disability Royal Commission.** (2021, March 16). *People with disability face much greater risk of violence than people without disability* [Press release]. Retrieved August 14, 2025, from <https://disability.royalcommission.gov.au/news-and-media/media-releases/people-disability-face-much-greater-risk-violence-people-without-disability>

- men with disability an approximately 200% increased likelihood of reporting sexual violence compared to men without disability.

Sexual violence experienced by people with disability frequently occurs within relationships characterised by trust, care-giving, and power imbalance. While intimate partners are perpetrators in many cases, sexual violence also occurs within extended family systems, including by parents, siblings, adult children, grandparents, uncles, aunts, in-laws and other relatives.

In many of these contexts, the perpetrator's power derives not only from familial status but from structural dependency. A person with disability may rely on someone else for housing, financial management, communication support, transport, medication, personal care, community engagement, or advocacy.

"People with disability experience family violence at rates 2-3 times higher than the general population, often involving unique forms like withholding assistive devices, medication control, or exploitation by caregivers" – Laurel House Policy and Advocacy Committee member

The abuse of that dependency to facilitate sexual violence is consistent with the core dynamics of family violence – coercive control, isolation, surveillance, and exploitation of vulnerability.

*"I think it's really important to consider a **caregiver**. If someone is a minor, or someone has a disability or existing trauma, anyone can control that person." – LEEP Advocate*

Legislative and policy frameworks outside the FVA can also exacerbate risk for people with disability and create conditions that enable a perpetrator to exercise control. For example, the Disability Support Pension (DSP) may be reduced or cut off when a person enters an intimate partner relationship. This can significantly limit a person's independent access to finances, including their capacity to leave an abusive environment, secure alternative housing, or meet basic needs without reliance on the person using violence.

Additional barriers such as communication differences, diagnostic overshadowing,⁸ dependence on the perpetrator for care, fear of institutionalisation, and past experiences of being disbelieved further limit

⁸ **Diagnostic overshadowing** is where symptoms of physical or psychological distress are dismissed or misattributed to disability rather than properly investigated. This practice can lead to delayed or missed diagnoses, inadequate treatment, and the minimisation of disclosures of violence or abuse. For people with psychosocial, intellectual, cognitive, or communication disabilities, trauma-related symptoms are particularly likely to be reframed as behavioural issues or features of disability, discouraging help-seeking and undermining health outcomes.

disclosure and help-seeking. The FVA reliance on narrow relationship categories rather than an assessment of power, dependency, and risk leaves people with disability particularly vulnerable and underscores the need for reforms that recognise sexual violence in carer-controlled and support-based relationships.

Ableism within legal and service systems can further limit recognition of abuse as family violence. Assumptions about disabled people's capacity to form intimate or sexual relationships, or to accurately identify and describe abuse, may result in relationships being minimised, mischaracterised, or not recognised as giving rise to protections under the FVA. This creates a risk that sexual violence occurring within relationships of care and support is not treated as family violence.

Laurel House supports the inclusion of carer and support relationships in the FVA. However, any "dependency test" should be refined to ensure that relationships designed to promote independence are not excluded. In NDIS and other community-based models, supports are intended to build autonomy. Despite this, significant power imbalances, intimate access, and decision-making authority often remain. Abuse in these contexts can include withholding essential supports, threatening complaints or funding changes, or exploiting a person's vulnerability. These behaviours constitute family violence regardless of how "dependent" or "independent" a person is perceived to be.

If "dependency" is required to establish a carer relationship, there is a risk that police, courts, and other parts of the system will look for evidence of substantial reliance. This may exclude many paid or unpaid support relationships, even where there is clear authority, intimate personal access such as assistance with hygiene, medication or mobility, managing of life administration and finances, or power arising from the care role itself.

This creates a gap. Support workers who assist a person to build or maintain independence, including through skill development, community participation, or client-directed models, may fall outside the scope of the FVA. This is despite the presence of the same dynamics that enable abuse, such as control over essential supports or the ability to disrupt services.

These issues are better addressed by focusing on the provision of care or support as the defining feature of the relationship. Clear, function-based language, supported by explicit consideration of disability-specific barriers, would better capture risk and align with the *Carer Recognition Act 2023 (Tas)* and national best practice.

It is also important to recognise that violence within care and support relationships can be bi-directional. Carers may, in some circumstances, experience family violence from the person they support. These situations require careful, context-specific assessment to distinguish between patterns of coercive control and behaviours linked to disability, trauma, or unmet support needs. A framework that focuses on power, control, and the

nature of the relationship, rather than fixed assumptions about roles, will better support appropriate and proportionate responses.

Recommendations

13. Define “carer or support relationships” within the FVA

Amend the FVA to define “carer or support relationships” to include where a person provides, or is engaged to provide, assistance with daily living, personal care, decision-making support, life administration and financial management, community participation, or other essential supports to another, including arrangements that are paid or unpaid, formal or informal, and those arising under the NDIS, disability, or aged care frameworks. A care or support relationship exists regardless of the degree of dependency, where there is any element of:

- Authority or decision-making influence
- Intimate or personal access to the person, their body, home, or supports; or
- Inherent power imbalance arising from the care or support role

Courts, police, frontline family violence services, and justice system actors must be required to consider:

- Communication barriers, diagnostic overshadowing, and fear of institutionalisation or service disruption;
- Reliance on the perpetrator for care supports (even in independence-promoting or consumer-directed models under the NDIS);
- Principles of choice and control under the NDIS and *Carer Recognition Act 2023 (Tas)*; and
- Risks of misidentification of the predominant aggressor in bidirectional or disability-related dynamics.

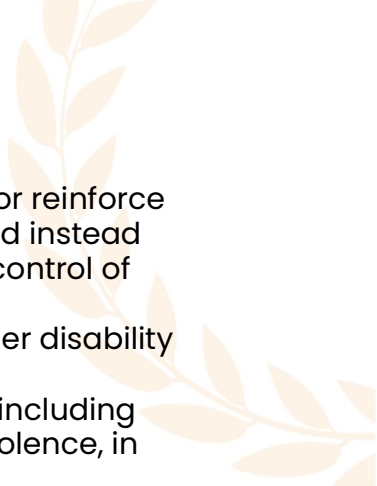
14. Expand the definition of family violence to capture abuse within carer and support relationships

Amend the FVA to explicitly recognise carer and support relationships, especially where a person exercises power through control of supports, services, or decision-making as falling within the scope of family violence as defined in recommendation 13 above.

15. Engage the Disability Commissioner to inform expansion of FVA definitions

Ensure that any expansion of definitions within the FVA is informed by targeted consultation with the Tasmanian Disability Commissioner. This should include:

- seeking expert input on how relationships involving control over supports, services and decision-making are experienced in practice by people with disability

- 
- ensuring that legislative definitions do not rely on or reinforce deficit-based concepts such as “dependency”, and instead accurately capture how power operates through control of access, communication, and autonomy
 - supporting alignment between the FVA and broader disability policy and safeguarding frameworks
 - embedding co-design with people with disability, including those with lived experience of sexual and family violence, in the development of any amended definitions

Older people

Laurel House’s position is that specialist elder abuse frameworks are important for providing age-specific support, but they should sit alongside, not outside, the FVA. Treating elder abuse separately, and relying exclusively on elder-abuse frameworks, can lead to gaps in protection, and reduced access to protections including FVOs and PFVOs, as well as potential exclusion from family violence support services.

Older people face heightened risks of sexual violence in relationships of care and support, particularly where they rely on family members for personal care (including intimate care and hygiene), housing, transport, finances, food, community connection, or daily living support. In these contexts, sexual violence may include unwanted touching during personal care, coercive or exploitative sexual conduct, or the use of intimate care tasks to violate bodily autonomy and dignity. Sexual abuse in these contexts is often perpetrated by trusted family members and/or those in caregiving roles.

The misuse of legal decision-making authority is a significant and often overlooked form of abuse in the context of older people. While powers of attorney, enduring guardianships, and Tasmanian Civil and Administrative Tribunal (TASCAT) administration or guardianship orders are intended to support autonomy and safeguard wellbeing, they can be used to facilitate control, exploitation, and sexual violence. This may include controlling living arrangements, increasing isolation, restricting access to finances, or limiting opportunities for disclosure or intervention. The existence of legal authority can also lend credibility to the perpetrator, making it more difficult for older victim-survivors to be believed or to challenge the abuse. Explicit recognition of these dynamics within the FVA would assist police and courts to identify and respond to this form of abuse.

There is clear overlap with the issues identified in the disability context, particularly the need to avoid relying solely on narrow concepts of “dependency” to recognise relationships characterised by power, control, and intimate access. In both contexts, abuse can occur within relationships that are framed as supportive or enabling independence. However, in the context of older people, these dynamics are more likely to arise within intergenerational family relationships, including adult children, and are

often shaped by age-related factors such as cognitive decline, social isolation, and heightened risk of financial abuse and institutionalisation, which require distinct consideration within the FVA.

The “*Royal Commission into Aged Care Quality and Safety*” found that between 2018–2019 the estimated number of alleged incidents of unlawful sexual contact in residential aged care was as high as 2,520 – which equates to almost 50 per week. The Report described this as “...a *disgrace and should be a source of national shame*.”⁹ Such abuse was perpetrated by both family and non-family members. The Royal Commission found that abuse of older people, including by family members and trusted individuals, is a serious problem that extends beyond institutional settings into community and home environments.

Elder abuse outside residential care is significant and under-recognised. For example, national prevalence data indicates that approximately 53% of perpetrators of elder abuse are family members, including adult children, their spouses, or other relatives. Of reported sexual elder abuse, approximately 15% of perpetrators are family members, with others including friends, acquaintances and neighbours.¹⁰

“So many older parents are experiencing high-risk abuse perpetrated by their adult children.” – Laurel House staff member

Sexual violence within familial caregiving relationships, including where adult children or other relatives exploit dependency to facilitate abuse, should be explicitly recognised within the protections of the FVA.

Legislative approaches in Victoria, Queensland, Western Australia and the ACT demonstrate that relationships involving care, support, and reliance can be recognised within family violence frameworks. However, these models are inconsistent, often exclude paid carers, and rely heavily on concepts of dependency. Reform of the FVA presents an opportunity to adopt a clearer, functional definition that captures relationships of care, support and trust, including in disability contexts, without requiring a family-like characterisation.

Recommendations

*The recommendations in the disability section above, particularly those relating to the definition and recognition of **carer and support relationships**, apply equally in the context of older people. The*

⁹ Royal Commission into Aged Care Quality and Safety. (2021). *Final report: Executive summary*. Commonwealth of Australia. <https://www.royalcommission.gov.au/system/files/2021-03/final-report-executive-summary.pdf>

¹⁰ Australian Institute of Health and Welfare. (2023). *Family, domestic and sexual violence: Older people*. AIHW. Retrieved 2025.

recommendations below should be read in conjunction with those provisions.

16. Require consideration of age-related risk factors

Amend relevant provisions of the FVA, including those relating to the making of FVOs and PFVOs, to require police and courts to consider age-related risk factors when assessing family violence. This should include factors such as social isolation, cognitive impairment, reliance on others for care and support (paid or unpaid, formal or informal), and the risk or threat of institutionalisation.

17. Recognise misuse of legal decision-making authority as a form of systems abuse

Amend the FVA to clarify that family violence includes the misuse or abuse of decision-making authority, including general and enduring powers of attorney, enduring guardianships, and TASCAT orders (including administration and guardianship orders), used to control, coerce, or exploit a person.

Culturally and Linguistically Diverse (CALD), Migrant, and Culturally and Racially Marginalised (CARM) Communities

Family violence, including sexual violence, is experienced across all communities. However, migrant, CALD and CARM victim-survivors face distinct and compounding risks arising from migration status, racial marginalisation, language barriers, and cultural expectations regarding gender, marriage and sexuality. These risks must be explicitly recognised in any reform of the FVA. The *Breaking Barriers, Building Strengths: Collaboratively Addressing Sexual Violence in Diverse Cultural Communities – Summary Report* identifies that limited understanding of consent laws, lack of shared language around sexuality, and entrenched norms can prevent victim-survivors from recognising sexual violence as unlawful.¹¹ The Report also highlights that sexual violence is rarely discussed and subject to strong stigma and shame in many CALD communities, creating distinct barriers to disclosure beyond those associated with other forms of violence.

Access to qualified interpreters is essential when responding to sexual violence in family violence contexts, but the *Breaking Barriers, Building Strengths* report shows that they are not used consistently and can be difficult to access. Concerns about confidentiality, especially in small or close-knit communities where interpreters may be known to the person,

¹¹ Kirkman, E., & Gylletorn, L. (2025). *Breaking barriers, building strengths: Collaboratively addressing sexual violence in diverse cultural communities – Summary report*. Welcome Cultural Services & Laurel House.

can make it harder to disclose sexual violence. Without safe and consistent access to interpreters, victim-survivors may not be able to explain what has happened, understand their rights, or engage with FVA processes.

It is important to distinguish between different but overlapping cohorts. Migrant communities include people who have arrived in Australia through a range of visa pathways, including temporary partner visas, skilled migration and humanitarian programs. CALD communities are typically defined by language and cultural background, while CARM recognises the impact of racialisation and structural racism on access to power, safety and justice. These distinctions matter because the forms of coercion and barriers to protection differ across these groups.

In some contexts, marriage is treated as conferring ongoing sexual entitlement. Victim-survivors may not identify marital rape or sexual coercion as unlawful, or may fear shame, ostracism or immigration consequences if they report. Sexual violence may be embedded within broader coercive control, including reproductive coercion, isolation, restriction of English acquisition, confiscation of documents and threats of deportation. This may include threats relating to child marriage or practices affecting a child's bodily integrity (e.g., genital mutilation), including where perpetrators seek to facilitate these through travel to another jurisdiction.

Temporary visa holders are particularly vulnerable to migration-related coercion, where perpetrators weaponise visa dependency to silence and control.

Laurel House staff have also observed a concerning pattern in which Australian-born men, often white, heterosexual and socioeconomically secure, form relationships with and marry women from countries with lower socioeconomic status, bring them to Australia on partner visas, and then subject them to abuse.

In some cases, women are treated as property or as someone who has been "paid for," resulting in sexual violence, forced domestic labour, financial control, confiscation of documentation and threats of deportation. These arrangements reflect the intersection of patriarchal entitlement, global inequality and migration dependency, creating conditions in which sexual exploitation and enslavement-like abuse can occur.

Multigenerational living arrangements often common in CALD communities may increase exposure to coercion or sexual violence by extended family members and create pressure to tolerate abuse to preserve family unity. CARM victim-survivors may also face discriminatory policing and court responses, misidentification as predominant aggressor, and reduced credibility.

As recognised in the intersectionality framework adopted in this submission, systems of racism, sexism and migration status intersect to

produce compounded marginalisation. Legislative reform must ensure the FVA clearly captures sexual violence within marriage, coercion linked to visa dependency and violence occurring within extended family structures.

Recommendations

18. Embed migration-related coercion within risk assessments

Require that risk assessment under the FVA explicitly considers migration-related coercion, including visa dependency, threats of deportation and control of identity documents, as indicators of family and sexual violence and coercive control.

19. Strengthen requirements for safe and appropriate interpreter use across all FVA processes

Introduce enforceable obligations that require the use of qualified interpreters at all stages (police, courts, accessing services) where needed, including guidance on managing confidentiality risks in small or close-knit communities.

20. Require accessible, non-written pathways to information and justice processes

Ensure that information about FVOs, reporting, and legal processes is available in audio, video and pictorial formats, as well as in community languages, and is suitable for people with low literacy.

21. Improve system capability to identify sexual violence where it is not named as such

Require training and guidance to ensure that sexual violence in family violence contexts is recognised and responded to even where victim-survivors do not identify the conduct as unlawful.

22. Mandate culturally responsive service delivery standards within the FVA framework

Introduce minimum standards requiring that services responding under the FVA demonstrate cultural capability and responsiveness, engage bicultural workers or community partners where appropriate, and deliver responses that are adapted to cultural context without compromising legal protections.

Aboriginal Communities in Lutruwita/Tasmania

Laurel House provides in-principle support for expanding the FVA to expressly recognise Aboriginal and Palawa kinship structures. Any modern definition of family violence must reflect the lived realities of Aboriginal communities in Lutruwita/Tasmania, where family is understood through extended, relational and culturally grounded kinship systems rather than narrow nuclear or biologically defined categories. Recognition of these structures is necessary to ensure that victim-survivors experiencing

violence within extended kinship networks are not excluded from protection.

However, expansion of the statutory definition must proceed with caution. Aboriginal people in Lurruwita/Tasmania and nationally are already significantly overrepresented in policing and criminal legal systems. Legislative expansion that broadens the scope of recognised family relationships without corresponding safeguards risks further overcriminalisation of Aboriginal cohorts. This approach is consistent with the *Our Ways, Strong Ways: Aboriginal and Torres Strait Islander Family Safety Plan 2021–2031*, which was developed through Aboriginal leadership, including representation from Tasmanian Aboriginal communities, and affirms that responses to family violence must be grounded in community-defined understandings of family, kinship, authority and responsibility.¹²

Particular concern arises in relation to the well-documented misidentification of Aboriginal victim-survivors as predominant aggressors in family violence incidents. Data from other jurisdictions demonstrates that Aboriginal women are disproportionately recorded as respondents while also being recorded as victim-survivors.¹³ In a Tasmanian context, where Police issue a substantial proportion of FVOs, the risks associated with misidentification are amplified given the high risk of racial discrimination in policing. The Australian Law Reform Commission has identified that *“there is evidence that the law is applied unequally—for example, Aboriginal and Torres Strait Islander young people are less likely to be cautioned and more likely to be charged than non-Indigenous young people,”* highlighting how discretionary policing practices can produce discriminatory outcomes.¹⁴ Expanding the categories of recognised family relationships without strengthening safeguards around predominant aggressor identification may unintentionally increase the number of Aboriginal people drawn into the criminal justice system.

Reform must also be situated within the ongoing impacts of colonisation and systemic racism, particularly within policing and legal institutions. Historical and contemporary state violence, child removal practices, and

¹² Department of Social Services. (2021). *Our ways, strong ways, our voices: National Aboriginal and Torres Strait Islander family safety plan 2021–2031*. Australian Government.

<https://www.dss.gov.au/system/files/documents/2026-02/our-ways-strong-ways-our-voices.pdf>

¹³ Victorian police data indicates that 79.4% of Aboriginal women recorded as respondents in family violence reports had previously been recorded as victims of family violence; while this data is not from the Tasmanian context, it is widely cited as evidence of the systemic misidentification of Aboriginal victim-survivors: Victorian Aboriginal Legal Service. (2024). *Submission to the Inquiry into Capturing Data on Family Violence Perpetrators in Victoria*. Melbourne, VIC: Victorian Aboriginal Legal Service.

¹⁴ Australian Law Reform Commission. (2018). *Pathways to justice—An inquiry into the incarceration rate of Aboriginal and Torres Strait Islander peoples* (ALRC Report No. 133). https://www.alrc.gov.au/wp-content/uploads/2019/08/final_report_133_amended1.pdf

discriminatory policing continue to shape mistrust and unequal outcomes. Any legislative change that increases police discretion or expands pathways into the criminal legal system must be carefully scrutinised for its potential to compound these harms.

Reform must occur through genuine, sustained, and broad consultation with leadership from the Tasmanian Aboriginal community and Aboriginal community-controlled organisations.

Recognition of Palawa and other Aboriginal kinship systems cannot be imposed through statutory drafting alone. It must reflect community-defined understandings of family, authority and responsibility, and be shaped by those with lived experience of both violence and state intervention.

Recommendations

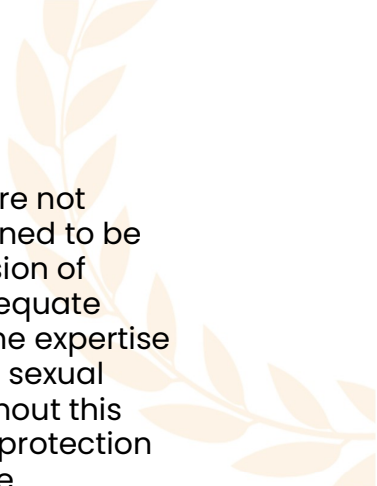
23. Recognition of Aboriginal and Palawa kinship systems

Amend the FVA to expressly recognise Palawa/Aboriginal kinship systems within the definition of family relationship, and ensure that any expansion is accompanied by safeguards to prevent overcriminalisation, misidentification and systemic harm, including:

- genuine, ongoing and adequately resourced consultation with the Palawa/Aboriginal community-controlled organisations in the design, implementation and evaluation of legislative reform.
- Strengthened legislative guidance on identifying predominant aggressors, particularly in the context of coercive control and systemic misidentification.
- Mandatory, ongoing cultural safety and anti-racism training for Police, Magistrates, court staff and legal practitioners.
- Explicit safeguards to prevent the unintended criminalisation of Aboriginal victim-survivors.
- Dedicated and sustained resourcing for Aboriginal community-controlled organisations to provide culturally safe legal, advocacy and support responses. Embed Aboriginal self-determination in legislative reform by requiring partnership with, and leadership from, Palawa/Aboriginal community-controlled organisations in defining and operationalising kinship-based relationships within the FVA.

Resourcing of Specialist Sexual Violence Service and Workforce Capacity

Any expansion of the FVA will require commensurate and sustained investment in specialist sexual violence services. Where sexual violence is part of family violence, general therapeutic and support responses are



often not sufficient. General services may cause harm if they are not delivered by specialist sexual assault services, or are not designed to be appropriate for children and young people. For example, inclusion of children within the FVA must therefore be accompanied by adequate resourcing of dedicated sexual assault support services with the expertise to respond to child sexual abuse, grooming dynamics, harmful sexual behaviour (HSB), and complex trauma across the lifespan. Without this investment, legislative reform risks creating pathways to legal protection that cannot be meaningfully accessed or supported in practice, undermining both safety and recovery outcomes for children.

Chronic under-resourcing and systemic undervaluing of specialist family and sexual violence services in Tasmania, including specialist legal responses and justice navigation supports, continues to constrain the sector's capacity to deliver safe, trauma-informed and effective responses, and must be addressed as a core component of any expansion of the FVA framework.

It is important to emphasise that these capacity constraints should not delay or limit legislative reform. Victim-survivors across diverse cohorts, including children and young people, Aboriginal communities, people with disability, migrant and refugee communities, older people, and LGBTIQ+ people, are already engaging with specialist services, often without adequate legal protection under the current framework. Reform is therefore necessary to align legal protections with lived realities, alongside concurrent investment in specialist services and workforce capacity to ensure those protections are accessible, safe, and effective in practice. This position is reinforced by the Australian Law Reform Commission (ALRC) in *Justice responses to sexual violence* (Report No. 143), which emphasises that reform must be supported by new investment across the justice and service system¹⁵. Redirecting existing resources risks weakening already stretched services. Without additional resourcing, reform may further burden the system and limit its capacity to deliver timely, effective, and trauma-informed responses.

Funding alone is not enough. Workforce capacity is also a critical enabler of any expanded legislative framework. As consistently highlighted by Laurel House, Tasmania faces ongoing shortages in specialist sexual violence practitioners, particularly in regional and rural areas. Sustainable workforce strategies are required, including secure funding, specialist training pathways, and recognition of sexual violence practice as a distinct and non-interchangeable field of expertise.

¹⁵ Australian Law Reform Commission. (2025). *Justice responses to sexual violence* (ALRC Report No. 143). <https://www.alrc.gov.au/wp-content/uploads/2025/02/JRSV-Final-Report-Book-for-Web-final-20250211.pdf>

Coordinated implementation of the ALRC's *"Justice responses to sexual violence"* is critical in Tasmania. Many of the reforms identified, including intermediaries, trauma-informed evidentiary processes, and improved system coordination, directly intersect with family violence responses under the FVA. Without deliberate action to implement these reforms locally, legislative change risks operating in isolation, limiting its effectiveness and perpetuating gaps in safety and access to justice for victim-survivors.

Recommendations

24.Strengthen implementation through training and specialist pathways

Mandate comprehensive, cross-sector training for police, legal practitioners, judiciary and court staff on the intersection of sexual violence and family violence across diverse cohorts. The development, delivery and evaluation of this training must embed lived experience expertise of both family and sexual violence, recognising the distinct but overlapping dynamics of these forms of harm. Lived experience participation must be:

- Remunerated appropriately
- Trauma-informed and supported
- Diverse and intersectional

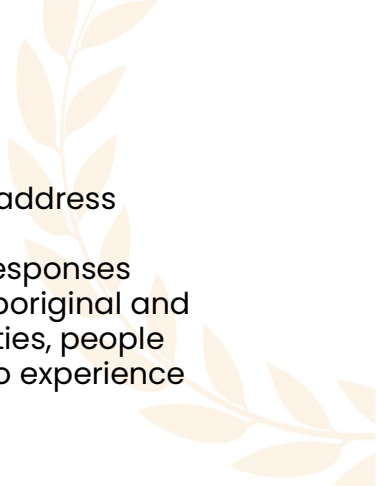
25.Legislate service system readiness requirements alongside scope expansion

Include an implementation provision (or accompanying government commitment) that any expansion of relationship coverage and child standing must be matched with workforce and service capacity measures, to avoid expanding legal pathways that cannot be supported in practice.

26.Resource specialist services to meet increased and existing demand across diverse cohorts

Ensure that any expansion of the FVA is accompanied by sustained investment in specialist family and sexual violence services, recognising that these services are already supporting diverse cohorts (detailed above) under conditions of significant underinvestment and system strain. This should include:

- Core, long-term funding for specialist services (including sexual assault services) to deliver consistent, statewide responses, reducing reliance on short-term or project-based funding arrangements
- Targeted investment in regional and remote service delivery, including workforce attraction and retention strategies, outreach

- 
- capacity, and infrastructure such as Arch Centres, to address geographic inequities in access
 - Resourcing to ensure culturally safe and accessible responses within mainstream specialist services, including for Aboriginal and Palawa communities, migrant and refugee communities, people with disability, LGBTIQ+ communities, and others who experience structural barriers to support

If the *Family Violence Act* continues to focus exclusively on intimate partner relationships and affected children, do you suggest any improvements to the restraint order framework? If so, what do you suggest?

Strengthening the restraint order framework where sexual violence is alleged

As above, we strongly urge the definition of family violence to be broadened beyond the current narrow definition. However, if the FVA continues to focus exclusively on intimate partner relationships and affected children, the restraint order framework under the *Justices Act 1959 (Tas)* should be strengthened to provide more effective and trauma-responsive protections where sexual violence or threats of sexual violence are the foundation of an application. As the *Justices Act 1959* currently operates as the primary protective mechanism for victim-survivors outside the scope of the FVA, its limitations have significant consequences for safety, access to justice and accountability.

Police-led applications in sexual violence matters

Police should be supported, trained, resourced, and encouraged to make restraint order applications on behalf of applicants in matters where sexual violence or sexual abuse forms a basis for the order, noting that they already have the legislative power to do so, though practitioners tell us this rarely happens. Victim-survivors of sexual violence face well-documented barriers to self-initiated legal action, including trauma, fear of retaliation, stigma and bias (for example, not being believed), and limited access to legal support. A clearer expectation of police-led applications in these matters would improve access to protection and reduce reliance on victim-survivors navigating proceedings alone.

Recommendations

27. Strengthen police-led restraint order applications in sexual violence matters

Develop statutory guidance and operational policy requiring Tasmania Police to proactively consider making restraint order applications on behalf of victim-survivors where sexual violence or threats of sexual violence form part or the basis of the application. This should be supported by specialist training and resourcing to ensure police-led applications are used consistently in matters

where victim-survivors face barriers to initiating proceedings themselves.

Expanding grounds for restraint orders to include sexual violence

Currently in Tasmania, section 106B of the *Justices Act 1959* sets out the four grounds upon which an RO can be made, which include that a person (the respondent to the application) has:

- (a) Caused personal injury or damage to property and is likely to do so again;
- (b) Threatened to cause personal injury or damage to property and is likely to carry out that threat;
- (c) Behaved in a provocative or offensive manner and is likely to behave similarly again; or
- (d) Stalked another person (either the applicant or a third person) causing apprehension or fear for the applicant.

If a victim-survivor cannot establish, on the balance of probabilities, that “personal injury” is “likely” to happen again then they cannot fulfil the threshold set out in s106B. This is also the case if sexual violence has been threatened but not likely to be carried out. If a victim-survivor is not protected by family violence laws (e.g., if they were not deemed to be in an intimate relationship with the perpetrator) then they cannot obtain a PFVO or FVO. This leaves an RO their only option. This is particularly problematic in sexual violence matters, where harm may be one-off but profoundly impactful. A victim-survivor may have ended the relationship, relocated, or altered their circumstances in ways that reduce contact and communication, thereby inadvertently reducing or eliminating their legal argument for an RO to be granted.

The grounds upon which an RO may be made should be expanded, regardless of or in addition to any changes to the FVA, to expressly include sexual violence, in a manner comparable to existing stalking-based provisions.¹⁶ Where sexual violence has occurred, or where a threat of sexual violence has been made, applicants should not be required to establish a likelihood that the conduct will occur again or that a threat will be carried out. The occurrence (or threat) of sexual violence itself should be sufficient grounds to make an order, recognising the seriousness of the

¹⁶ Section 106B(1)(d) *Justices Act 1959 (Tas)*

risk posed by sexual offenders if they are legally able to continue to make contact with their victim.

Recommendations

28. Expand statutory grounds for restraint orders to include sexual violence

Amend section 106B of the Justices Act 1959 to create a specific ground for ROs where sexual violence has occurred or where threats of sexual violence have been made. The occurrence of sexual violence should be sufficient to ground an order, without requiring applicants to demonstrate that the conduct is likely to occur again or that a threat is likely to be carried out.

Duration of restraint orders during criminal proceedings

While the Justices Act 1959 allows Magistrates to determine the duration of a RO, in practice these orders are commonly made for a period of 12 months. This can create practical difficulties in matters involving sexual violence where related criminal proceedings may continue beyond that period. As a result, victim-survivors may be required to return to court to seek extensions to maintain protection while criminal proceedings remain unresolved.

“The threat, or perceived threat, doesn’t just disappear at 12 months... the threat (real or otherwise) is perceived to increase as time passes and the likelihood of the case being heard increases, or the volume of evidence heard increases. Every trip to court was crippling for me, whether it was for a mention, an adjournment, the hearing itself or sentencing. Decreasing the number of court sessions reduces the retraumatisation of the victim.” – Laurel House Policy and Advocacy Committee member

Consideration should therefore be given to strengthening legislative guidance or practice directions to support restraint orders operating for the duration of related criminal proceedings where appropriate, reducing the need for repeated applications and minimising additional court involvement for victim-survivors.

Recommendations

29. Support restraint orders operating for the duration of related criminal proceedings

Introduce legislative guidance or Magistrates Court practice directions compelling courts to consider making restraint orders for the duration of related criminal proceedings in matters involving sexual violence or abuse.

Inappropriateness of conciliation in unrepresented sexual violence matters

Conciliation should not be used in RO matters involving allegations of sexual violence where parties are unrepresented, given the inherent power imbalances, risks of coercion, and the unsuitability of negotiated processes in sexual violence contexts. Where parties are represented, conciliation should only occur in ways which prioritise victim-survivor safety, choice, and agency in the process, for example:

- (a) with the parties being in separate rooms/locations; or
- (b) via videolink; and
- (c) with the consent of the victim-survivor.

Recommendations

30. Restrict the use of conciliation in restraint order matters involving sexual violence

Introduce legislative guidance or court practice directions preventing the use of conciliation in restraint order proceedings involving allegations of sexual violence where parties are unrepresented. Where conciliation occurs in represented matters, it should only proceed with the informed consent of the victim-survivor and in ways that prioritise safety, including through shuttle negotiation, separate rooms or remote participation.

Aligning costs provisions with the FVA

Parties to FVO proceedings in the Magistrates Court of Tasmania are, as a general rule, liable to bear their own legal costs.¹⁷ While there are exceptions to this, which include if a party acted for a controlling, intimidating, malicious, vexatious or bad faith purpose, this provision ensures that victim-survivors do not have to consider the risks of costs being awarded against them in the event their application is not successful. This provision promotes equitable access to the law, and aims to limit systems abuse by preventing perpetrators from weaponising threats of costs applications to intimidate or silence victim-survivors. This protection does not exist in RO applications.

Costs provisions in relation to RO applications should be aligned with those under the FVA where the basis for the application is sexual violence, so that each party bears their own costs. This would reduce financial risk for

¹⁷ Family Violence Act 2004 (Tas) s 34. (n.d.). Retrieved February 27, 2026, from https://www5.austlii.edu.au/au/legis/tas/consol_act/fva2004158/s34.html

victim-survivors and prevent costs from being used as a deterrent to seeking protection or as a mechanism for further systems abuse.

Recommendations

31. Align restraint order costs provisions with those applying to FVO proceedings in sexual violence matters

Amend the *Justices Act 1959* to introduce a presumption that each party bears their own legal costs in restraint order proceedings where sexual violence forms the basis of the application, mirroring the approach under the FVA.

Mandate Accessible Court Procedures

ROs are commonly applied for by the person who requires protection. Although Police have the power to make an application, as mentioned above, they often refer people directly to the Court to make their own application. Where the person in need of protection has a disability, it is crucial that the application process is accessible. This includes having forms in easy-read formats, and supplying Auslan interpreters throughout the process.

Recommendations

32. Accessible RO application processes for disabled people

Ensure accessible application pathways for ROs for people with disability. This should include the provision of easy-read and accessible forms, access to Auslan interpreters and other communication supports, and procedural safeguards to enable individuals to effectively initiate and participate in applications without reliance on police.

*Is there anything else you would like to say about the scope of relationships covered by the *Family Violence Act*?*

In considering the scope of relationships covered by FVA, it is critical that the legislation moves beyond rigid, status-based definitions of 'family' and instead centres its focus on the dynamics of power, control and coercion. Family violence is fundamentally about the abuse of power within relationships characterised by dependency, vulnerability or trust. As such, protections should extend to relationships where there is a clear power imbalance or structural dependency, even if they do not fall neatly within traditional (and often outdated or exclusionary) familial categories.

*"Just having intimate partner violence gives a **hierarchy** to the trauma within violence, which again gives more power to the abusers."* – LEEP Advocate

A framework grounded in the misuse of power rather than strict relational labels would better reflect the lived realities of victim-survivors, avoid creating hierarchies of harm, and ensure that the Act captures the full range of coercive and controlling relationships in which family and sexual violence can occur.

Family violence orders: Safety of victim-survivors of family violence

Victim-survivor rights under FVOs

Are the rights and interests of victim-survivors adequately protected as required by the *Family Violence Act* [in relation to FVOs]? How could they be better protected?

In short, no, the rights and interests of victim-survivors are not adequately protected under the current FVA in relation to family violence orders. Below, we set out some of the issues Laurel House staff and LEEP advocates have identified.

"I don't think they are protected at all – the system is a form of traumatisation." – Laurel House staff member

Relationship Duration

The rights and interests of victim-survivors are not adequately protected where informal or inconsistent thresholds are applied in determining whether a relationship is "significant" for the purpose of issuing a PFVO. While the *Relationships Act 2003* does not prescribe a minimum duration for a relationship to be considered significant, we have heard numerous and repeated accounts of an informal minimum "3-month" rule being applied in practice. Feedback from the Laurel House LEEP advocates confirms that relationships of less than three months' duration are not being recognised by Police as "significant relationships" when assessing whether to issue a PFVO. This is also consistent with the experiences of some Laurel House staff members.

This approach is particularly dangerous in the context of short, intense, "on again/off again," or casual relationships, where coercive control, financial abuse and other forms of abuse can occur rapidly and escalate quickly. Indeed, this is often a specific mechanism of control and coercion. A duration-based assessment risks minimising harm simply because the relationship is perceived as too brief to warrant protection. It fails to recognise that the seriousness of abuse is not contingent on time.

Barriers are further compounded for migrant victim-survivors, whose migration status may be implicitly or explicitly factored into decisions about whether protection is available. For those without established family

or community networks, dismissal on the basis of duration deepens isolation and vulnerability, reinforces powerlessness, and undermines trust in the system.

“Once they [Police] found out the timeframe of the relationship was not long enough [less than 3-months duration], they completely dismissed what I’d gone through. There was so much financial abuse going on as well. They said, ‘we can’t really do anything about that because of the timeframes as well as your migration status.’ That left me feeling really alone. I don’t have any family or close support systems in Australia.” – LEEP Advocate

A superficial duration-based assessment fails to account for the realities of sexual violence and coercive control, and undermines the protective purpose of the FVA. While migration status is explicitly referenced in the above example, the consequences of an informal “3-month” rule extend well beyond migrant victim-survivors. Sexual violence frequently occurs early in relationships, including within brief, casual, or “on again/off again” dynamics. These dynamics are not incidental. Some perpetrators will also deliberately remain in short-term or casual relationships, or move rapidly between relationships, as a means of evading the “significant relationship” definition. This ‘victim-hopping’ exploits gaps in recognition of relationship duration and allows perpetrators to target multiple victim-survivors while avoiding scrutiny or intervention. Perpetrators may deliberately target individuals who are more easily isolated or controlled, and may rapidly establish intense or dependent relationships as a mechanism of exerting control.

Grooming, reproductive coercion, image-based abuse, sexual pressure and assault can occur within days or weeks, particularly where there are age gaps, power imbalances, or social isolation. In many cases, this rapid escalation is itself a deliberate tactic, enabling perpetrators to establish control before external supports or warning signs can be recognised. These features are often actively leveraged by perpetrators, who exploit existing vulnerabilities and structural inequalities to accelerate dependency and reduce access to support. A temporal threshold risks minimising or excluding serious sexual harm simply because the relationship is perceived as too short to qualify as “significant”, despite all the markers of family and sexual violence being present.

Recommendations

33. Clarify that relationship duration is not determinative of a “significant relationship” under the FVA

Introduce legislative clarification confirming that the duration of a relationship must not be used as a determining factor when assessing whether a relationship is “significant” for the purposes of issuing a PFVO or FVO.

34. Strengthen protections for victim-survivors in short, casual, or emerging relationships

Provide statutory guidance recognising that family and sexual violence may occur rapidly within short-term, casual, or intermittent relationships. Police and courts should be required to assess the nature and dynamics of the violence when making PFVOs or FVOs rather than relying on conventional markers such as relationship duration, cohabitation, or financial interdependence.

35. Require culturally responsive and migration-sensitive decision making in PFVO and FVO assessments

Develop guidance and training for police and courts to ensure that migration status, visa dependency, social isolation, and limited support networks are appropriately considered when assessing risk and protection needs.

Children and Young People

Children and young people will remain largely unprotected by the family violence order framework if the FVA is not expanded to recognise them as victim-survivors in their own right. At present, children are only included as affected persons under an order issued in the name of an adult, most commonly their mother.

“Children [are] still very at risk from adult perpetrators who are allowed by law to still see their children by threatening and coercing the other partner especially once the FVO has expired.” – Laurel House staff member

This structure renders their safety contingent on the adult victim-survivor’s legal status, the duration of the order, and the framing of the relationship as a spousal or significant relationship.

“Often children are not protected or included in orders – IFVO or PFVO should protect children until family law or CSS can be included in the process.” – Laurel House Staff Member

Where an FVO expires, is not extended, or is undermined through coercion or family law proceedings, children may be left exposed to ongoing contact with a person using violence. Laurel House staff report that children remain at risk from adult perpetrators who continue to access them through threats and coercion directed at the other parent, particularly once an order has lapsed.

“Children are still very much at risk from adult perpetrators who are allowed by law to still see their children by threatening and coercing

the other partner, especially once the FVO has expired.” – Laurel House Staff Member

Children are also frequently excluded from interim or police-issued orders, despite clear evidence of harm. In practice, this means children may not be explicitly protected until parallel systems such as family law or Child Safety Services become involved. This delay can leave children unprotected during periods of heightened risk. Where children are not recognised as victim-survivors in their own right, the system minimises the direct impact of family violence on them and reinforces a narrow understanding of harm.

Recommendations

36. Strengthen inclusion of children in PFVOs and FVOs

Amend practice guidance and operational procedures to ensure that children are adequately considered for inclusion in PFVOs and interim FVOs where there is evidence of harm, exposure to violence, or ongoing risk. Guidance should:

- require decision makers to explicitly record the reasons where a child affected by the violence has not been included in the order; and
- clarify that the existence of proceedings in other jurisdictions (for example, family law or Child Safety Services) is not, in itself, a valid reason to exclude a child from protection under the order

37. Ensure continuity of protection for children where FVOs expire or are not extended

Develop legislative or procedural safeguards requiring courts and police to assess the ongoing safety of children when an FVO is approaching expiry, particularly where the respondent continues to have contact with the child. This should include mechanisms to prevent gaps in protection where family law or child protection processes have not yet resolved safety arrangements.

38. Ensure continuity of protection for affected children across age transitions

Amend the FVA to provide clarity that where a child is named as an affected child in a PFVO or FVO, the protections afforded by that order continue for the full duration of the order and do not lapse solely because the child turns 18.

Victim-Survivors as Applicants in FVO Proceedings

Where Police decide not to issue a PFVO, a victim-survivor may still make an application to the Magistrates Court for an FVO. In those circumstances, they become an applicant in legal proceedings against their perpetrator. This can be especially problematic where Police refer a victim-survivor to

the Court to make their own application, and there isn't clear advice about whether they should be applying for a FVO or an RO.

"Things are not explained properly to the person that it significantly involves. I had no support at this stage. I didn't know who to reach out to. I actually don't even know what the difference is [between a FVO and an RO], but this is what the police told me to do." – LEEP Advocate

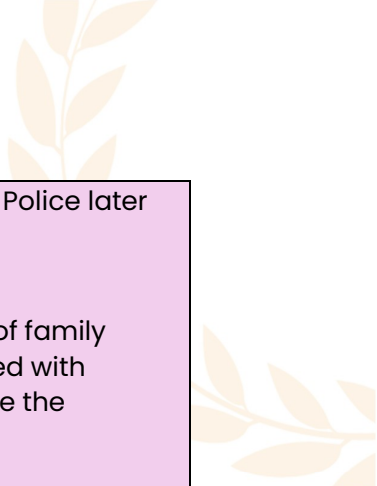
For many victim-survivors, when they are directed to the Courts to make an application, they are completely unaware of the process and risk involved, and rely heavily on the direction of Police and Court staff. Where they have not been referred for independent legal advice, victim-survivors are often unaware of what the process involved, including:

- that their perpetrator (the Respondent) will have a right to see a copy of the application
- the difference between a RO and an FVO, and which is most appropriate in their circumstances
- the ability and criteria to apply for an interim FVO
- that they will be expected to attend Court alongside the Respondent
- that they may be ordered to attend mediation as part of the Court process
- that in the event the Respondent defends the application, the matter will have to proceed to a final hearing, possibly months later

Case Study – Application for FVO

A family violence victim-survivor applied to the Magistrates Court for both a RO and later FVOs involving multiple incidents involving the same partner. She described the process as **confusing, unsupported and emotionally distressing**, particularly when navigating it without legal assistance.

In the first instance, police directed her to apply for a restraint order at the Magistrates Court because the relationship did not clearly meet the threshold for a family violence order. She attended court alone, without advice or advocacy support, and completed the application while highly distressed. She wrote her account in narrative form, unaware that her written statement would be photocopied and provided directly to the respondent. She was not informed of the differences between a restraint order and a family violence order, and when questioned by the Magistrate about her choice of order, she stated she had simply followed police instructions.



Over time, as the relationship evolved, the legal categorisation shifted. Police later issued a police family violence order once cohabitation and financial interdependence were established.

Across the course of proceedings, she reported that multiple versions of family violence orders were issued. However, she was not consistently provided with copies and had to actively chase police to obtain documentation, while the respondent received copies as a matter of course.

On one occasion, she was incorrectly informed by court support staff that the order would **not** be extended. This clerical error caused significant emotional distress and required follow-up with prosecution to correct. She described the experience as **destabilising and retraumatising**, particularly given the safety implications of an order expiring.

Recommendations

39. Improve procedural information and referral pathways for victim-survivors directed to court

Where police decline to issue a PFVO and instead direct a victim-survivor to apply to the Magistrates Court for an FVO, they should be required to provide clear, accurate and accessible written information about the available legal pathways. This information should explain:

- the difference between an FVO and a restraint order, and which option may be appropriate depending on the circumstances;
- that a respondent will be entitled to receive and review a copy of the application and supporting material;
- the requirements for service of documents;
- that the applicant may be required to attend court alongside the respondent;
- the possibility of being directed to attend a conciliation conference as part of the court process;
- that applications for FVOs do not attract a filing fee, while restraint order applications do; and
- that restraint order proceedings may carry a different risk profile in relation to legal costs.

40. Ensure access to independent legal advice or advocacy prior to FVO applications

Establish a referral pathway requiring police and court registries to offer victim-survivors access to independent legal advice, duty lawyers, or specialist advocacy services before lodging a private application for an FVO or restraint order.

41. Improve communication and documentation processes for FVO proceedings

Introduce procedural requirements ensuring that applicants are promptly provided with copies of all PFVOs, interim FVOs, variations, and final orders affecting their safety. Clear administrative processes should ensure victim-survivors are not required to actively chase documentation that is routinely provided to respondents.

42. Strengthen trauma-informed court processes for victim-survivor applicants

Develop court practice guidance to ensure victim-survivors applying for ROs and FVOs are supported through trauma-informed and accessible processes. Guidance should require courts to provide appropriate adjustments and supports for applicants with communication differences, disability, low literacy or digital literacy, and for those who do not speak English as a primary language. This should include:

- the provision of information about court processes in plain language, and in multiple formats, including verbal explanations where needed;
- access to accredited interpreters and translated materials for non-English speakers;
- communication support for people with disability, including Auslan interpreters, communication assistants, and the use of accessible communication tools where required;
- assistance to complete forms and understand documentation for applicants with low literacy or limited digital skills; and
- the availability of support persons or specialist advocates to assist victim-survivors to understand proceedings and participate safely in court processes, especially in cases where a child or young person is a party in proceedings.

Victim-survivor safety

Can victim-survivors remain safe whilst accessing support services and maintaining relationships? If not, what more could be done to ensure that victim-survivors are sufficiently protected?

While it is clearly not ideal for victim-survivors to remain in, or maintain, relationships with a perpetrator while accessing support, for some this may be the least risky option available, particularly where support systems are fragmented or inadequate. In the absence of secure housing, financial stability, child safety protections and coordinated legal assistance, attempting to leave can escalate danger rather than reduce it. Sometimes, given the interdependence and power dynamics that exist in abusive

relationships, victim-survivors do not always feel that they even have a choice.

“Protecting victim-survivors’ rights requires more than legal mechanisms; it requires a system that consistently centres safety, dignity, autonomy, and long-term wellbeing.” – Laurel House Staff Member

Systems often treat recent incidents as the main measure of risk, which can lead to sexual violence and coercive control being minimised where there has been no recent physical or sexual assault. An over-reliance on recent incidents as a benchmark for safety can obscure patterns of ongoing harm. Minimising or overlooking past behaviour can leave victim-survivors feeling their experiences are not taken seriously or do not warrant support.

“My experiences supporting clients navigating the family violence system is that it remains frustratingly disjointed and hard to navigate.” Laurel House Staff Member

National evidence demonstrates that risk commonly increases post-separation and during court proceedings.¹⁸ For victim-survivors of sexual violence, this escalation can include (but is not limited to) stalking, digital surveillance, litigation abuse, and forced contact through parenting arrangements. Children are likely to remain exposed to harm, particularly where supervised contact is inadequate and fear inhibits disclosure. Laurel House staff expressed concerns for children who are forced to see their offending parent, especially where supervision arrangements were inadequate. They also noted that where abuse does continue, the child can feel unsafe in reporting further sexual violence, as the system has not previously protected them or their family members.

Ensuring safety requires more than access to legal orders. A coordinated, trauma-informed and multidisciplinary response is necessary, integrating specialist sexual violence services, police, legal assistance and child advocacy. Expanded housing pathways, proactive monitoring of high-risk matters, specialist police involvement, strengthened scrutiny of contact arrangements where sexual violence is alleged, and safe court infrastructure are essential. Without these holistic protections, remaining may be unsafe, but leaving may be more dangerous still.

Men’s behaviour change programs are one approach that may contribute to victim-survivor safety, however the evidence and feedback on these programs is mixed both generally and in Tasmania. Laurel House endorses

¹⁸ Australia’s National Research Organisation for Women’s Safety. (2019). *National risk assessment principles for domestic and family violence*. <https://www.anrows.org.au/publication/national-risk-assessment-principles-for-domestic-and-family-violence/read/>

the content and recommendations relating to men's behaviour change programs for people who use family violence in Tasmania that are outlined in the submission to this consultation made by the Tasmanian Family and Sexual Violence Alliance (TFSVA).

Recommendations

43. Strengthen coordinated responses for victim-survivors remaining in relationships with perpetrators

Develop integrated practice guidance across police, courts and specialist services recognising that some victim-survivors may remain in, or maintain contact with, a person using violence. Responses should prioritise coordinated safety planning, risk monitoring and access to specialist sexual violence and family violence supports rather than assuming separation as the only pathway to safety.

44. Recognise and support protective parenting in responses to sexual violence and CSA

Develop policy, guidance and workforce training for Child Safety Services and other statutory agencies to ensure protective parents are not blamed for harm or risk to a child solely because the child has been exposed to sexual violence or CSA. Responses should recognise the safety strategies protective parents may use to reduce risk, such as monitoring interactions or limiting unsupervised contact, and prioritise accountability for the person responsible for the abuse.

45. Strengthen assessment frameworks for children exposed to sexual violence and CSA

Require Child Safety Services and related agencies to adopt assessment frameworks that:

- recognise that protective parents may be actively managing risk through strategies that are not always visible to systems;
- consider the risks associated with separation, including the potential loss of a protective parent's ability to supervise or monitor contact with the person responsible for the abuse; and
- account for the limitations and realities of family law processes that may require ongoing contact between children and a person alleged to have used sexual violence or committed CSA.

Length of family violence orders

In Tasmania, FVOs operate for as long as the court determines they are necessary. Do you consider this approach effective? Why? Why not?

Some stakeholders suggest that it has been standard practice to make FVOs for 12 months. Is this your experience? If so, was this an effective duration? Why? Why not?

Is there a need to legislate a default period for FVOs whilst still retaining the court's discretion to specify the duration of an order? If yes, how long should the default period be?

If there should be legislated default periods for FVOs, should the legislated period be extended where the perpetrator is subjected to a Serial Family Violence Perpetrator declaration? If so, how long should the extension be?

The FVA provides that FVOs may operate for as long as the court considers necessary. In principle, this approach allows flexibility and tailoring to risk. In practice, however, it is not operating effectively for victim-survivors where sexual violence forms part of the family violence.

Impact on victim-survivors and trauma recovery

The assumption that risk diminishes within a fixed period is inconsistent with the lived experience of sexual violence. Victim-survivors do not heal on a prescribed or linear timeline, and contact with, or proximity to, the person who perpetrated sexual violence can continue to trigger trauma responses regardless of the passage of time. The expiry of an FVO does not equate to the cessation of harm, fear, or psychological impact.

"I think there should be more scope to consider longer orders where it could be reasonably foreseen that another order would be needed in 12 months' time, and that it could be understood that the impact on the victim in having to apply for an extension would be unfair. Also having to go back through court for an extension can often play back into the perpetrators hands in being able to use the process to cause further distress to the victim." – Laurel House Staff member

Inadequate duration of FVOs places the onus on victim-survivors to reapply for protection, often while navigating trauma, fatigue, and complex legal processes. This can create opportunities for systems abuse, where perpetrators use the expiry of an order to reassert control, intimidate victim-survivors, or discourage continued engagement with criminal proceedings.

Current lengths generally inadequate

Our experience confirms that FVOs are most commonly only granted for a 12-month period. This is especially problematic in circumstances where sexual violence matters are proceeding through the criminal justice system, as they're unlikely to be resolved within that period. Criminal proceedings frequently extending over several years, particularly where matters proceed to the Supreme Court. It is not uncommon for serious sexual violence matters to be listed for trial years after the alleged offending. For example, a matter before the Supreme Court in February 2026 related to an incident from September 2022. Despite this, and although not required by the FVA, Magistrates commonly impose FVOs for a period of 12 months as a matter of custom.

"12 months isn't enough, as the time might end, but the risk persists"
– Laurel House Staff Member

This misalignment between justice system timeframes and default order durations can be highly problematic where there are ongoing or anticipated criminal proceedings.

"Removal of an order and the need to apply for an extension is crushing – the accused always seemed to have the upper hand or mechanisms moving in his favour to increase his power and intimidation." – Policy and Advocacy Committee member

The expiry of an FVO during active legal processes can expose victim-survivors to renewed risk at a time when stress, visibility, and contact with the perpetrator are often heightened, undermining the protective purpose of the order.

Recommendations

46. Introduce a legislated minimum duration for FVOs

Legislate a default period of at least 3 to 5 years for FVOs to strengthen baseline protections for victim-survivors and reduce reliance on inconsistent court practices with variations to this period allowed only within strictly limited circumstances.

Prolonged nature of recovery

Extensive longitudinal research confirms that sexual violence is strongly associated with significant and enduring psychological impacts for victim-survivors, including elevated rates of depression, anxiety, psychological distress and post-traumatic stress disorder.¹⁹ These impacts are not confined to the period immediately following the violence. For many victim-survivors, trauma responses persist for years and may be reactivated by reminders of the perpetrator, legal proceedings, or uncertainty about ongoing safety. Recovery is therefore rarely linear and cannot be assumed to align with fixed legal timeframes.

In this context, the expiry of an FVO does not equate to the resolution of harm or risk. Where protection is time-limited to 12 months as a matter of practice, victim-survivors may be required to re-engage with the court system while still navigating complex trauma and ongoing psychological distress. The need to monitor expiry dates and initiate extension applications can reintroduce instability, exacerbate anxiety, and expose

¹⁹ Loxton, D., Dolja-Gore, X., Forder, P., & Townsend, N. (2022). *Intimate partner violence and women's mental health: Findings from the Australian Longitudinal Study on Women's Health* (ANROWS Research Report, 4/2022). ANROWS. <https://anrows-2019.s3.ap-southeast-2.amazonaws.com/wp-content/uploads/2022/08/30173044/4AP.4-Loxton-Longitudinal-Womens-Health-Report.pdf>

victim-survivors to renewed systems abuse or intimidation. This procedural burden is particularly acute in matters involving sexual violence, where harm is often enduring and risk may manifest through coercive control, harassment, or litigation abuse rather than overt physical incidents.

Longer default periods for FVOs would better reflect the prolonged nature of recovery. Where the Court can reasonably anticipate that protection will be required beyond 12 months, imposing shorter durations risks re-traumatisation.

Legislating for 3-5year FVOs

We recommend a need to legislate a default period for Family Violence Orders to strengthen baseline protections for victim-survivors and reduce reliance on inconsistent court practices, while retaining judicial discretion to tailor orders to risk. A legislated default period of **at least 3 to 5 years** would better reflect the ongoing nature of risk in many family violence matters, particularly where sexual violence is present, and would reduce the frequency with which victim-survivors are required to re-enter the court system to maintain their safety. This would also bring Tasmania into closer alignment with other jurisdictions.

“Longer [than 12-months], pending the risk to, and wishes of, the victim-survivor.” – Laurel House Staff Member

Unlike many other protective mechanisms, FVO proceedings involve the victim-survivor and the perpetrator as direct parties to the litigation (it is uncommon for Police to initiate or proceed with FVO applications on behalf of a victim-survivor, even though they technically have the power to do so under the FVA). Where parties are unrepresented, this requires victim-survivors to appear in court proceedings directly against the person who has used violence against them. Even where a victim-survivor has legal representation, they are still actively engaged in an adversarial process with their perpetrator, albeit it at arms-length.

Short default order periods therefore operate to repeatedly expose victim-survivors to further litigation, re-traumatisation, and systems abuse. Longer default FVO periods would go some way to alleviating the need for victim-survivors to initiate extension proceedings in circumstances where an order is nearing expiry, but risk remains ongoing, including where related criminal or other legal proceedings are still on foot.

Court discretion to vary the duration of an order outside of this 3-5 year duration should be expressly preserved where appropriate but within strictly limited circumstances that focus squarely on what is best for the protection of victim-survivors and others impacted by family violence such as children. An exception to this limitation may be in the case of children and young people displaying harmful sexual behaviours (HSB). For example, this could include the Court making developmentally appropriate adjustments where the respondent was under 18 at the time of the family violence. In these circumstances, flexibility is required to balance safety,

accountability, and rehabilitation, to move away from inappropriately punitive responses for this age demographic and the evidence base for responses to HSB, but without undermining the primary protective purpose of the order.

Where a perpetrator is subject to a Serial Family Violence Perpetrator declaration, the legislated default period for a Family Violence Order should be extended to reflect the demonstrably heightened and ongoing risk posed to victim-survivors, particularly where sexual violence has occurred. In these circumstances, a presumption in favour of a lifetime order is warranted, recognising that serial perpetration is indicative of entrenched patterns of coercive control, escalation, and recidivism, and that risk does not diminish predictably over time.

We also recommend that where sexual violence is an element of the family violence, FVOs should also be able to operate on an indefinite basis. This approach better reflects the enduring nature of risk associated with sexual violence, reduces the procedural burden on victim-survivors, and aligns with the protective objects of the Act.

Any departure from a lifetime order should occur only on application by the perpetrator and be confined to narrow and clearly defined exceptions and limited circumstances. As with any legislation, it would be important to think through any potential unintended consequences such as perpetrators submitting repeated applications for revocations or variations as a form of harassment, coercion, or systems abuse. Limitations must therefore be considered such as a perpetrator being able to submit only one application in a set period of time (every two years, for example). The onus should rest entirely on the perpetrator to establish a substantial and sustained change in circumstances, supported by rigorous evidence, including the passage of a minimum period without breaches or further family violence offending, evidence of meaningful and completed rehabilitation, and disclosure of any criminal or FVO-related matters involving other victim-survivors. Decision-making should also require consultation with the victim-survivor and other impacted parties such as children, with their views and safety concerns given significant weight.

Recommendations

47.Exceptions to 3-5 year default period

Legislate factors that **cannot** be considered by a court in exercising their discretion to make an FVO of less than 3-5 years duration, to include::

- The existence of comparable bail or parole conditions of a respondent
- The relocation of the applicant, respondent, or affected person to a State outside Tasmania

- Evidence of “good character” or “good reputation,” community standing, employment status, or professional role
- A lack of a criminal conviction in relation to family or sexual violence
- The absence of prior FVOs, criminal charges, or formal complaints against the respondent
- The absence of physical injury, especially where the family violence is sexual, emotional, or technological, or whether the offending involves grooming or exploitation
- The respondent’s consent to the making of the order without admission
- The existence of shared parenting arrangements
- The victim-survivor’s continued communication or relationship with the respondent
- Any perceived “failure” of the victim-survivor to leave the relationship

48. Provide for lifetime or indefinite FVOs in high-risk matters

Legislate for lifetime/indefinite FVOs where a perpetrator is subject to a Serial Family Violence Perpetrator declaration or where sexual violence is an element of the family violence with variations to this period allowed only within strictly limited circumstances.

Other comments

Do you have any other comments on this topic?

Local Magistrates play a critical role in ensuring the immediate safety of victim-survivors and children where matters intersect between state FVA and the *Family Law Act 1975 (Cth)*. In circumstances where allegations of sexual violence or CSA arise, Magistrates should be supported and encouraged to actively consider and exercise their powers under section 68R of the *Family Law Act 1975 (Cth)* to revive, vary, suspend, or override existing parenting orders where necessary to protect a child or their non-offending parent/carer. These powers are particularly important where an urgent FVO is required to mitigate immediate risk, and where existing family law orders may otherwise compel unsafe contact or expose victim-survivors including children to further harm.

Consistent with evidence from specialist legal services, failure to utilise section 68R of the *Family Law Act 1975 (Cth)* can result in victim-survivors being placed in untenable positions, forced to choose between complying

with family law orders and prioritising safety.²⁰ Proactive and trauma-informed use of section 68R by Magistrates is essential to prevent legal systems from inadvertently facilitating ongoing abuse, to ensure child safety is paramount, and to provide clear, lawful authority for immediate protective responses in high-risk cases involving sexual violence or child sexual abuse.

Recommendations

49. Mandatory consideration of section 68R powers in matters involving sexual violence

Amend the FVA to require that, where a Court is determining an application for an FVO and there are existing parenting orders in force under the *Family Law Act 1975 (Cth)*, and the allegations involve sexual violence or child sexual abuse, the Magistrate must consider whether to exercise their powers under section 68R of the *Family Law Act 1975 (Cth)* to revive, vary, suspend or discharge those parenting orders to ensure the safety of the child and the non-offending parent or carer. The FVA should further require that the Magistrate:

- record that section 68R has been considered in such matters;
- treat the safety of the child and the non-offending parent or carer as paramount in determining whether to exercise section 68R powers; and
- provide brief reasons where section 68R is not exercised.

Operation of the provisions amended by the *Family Violence Amendment Act 2025*

Do you think the legislative amendments to section 20 and 34 of the *Family Violence Act* are working well? Why? Why not? Do you suggest any improvements?

The amendment to section 20, which clarified that an application to extend an FVO does not require a substantial change in circumstances, removed a practical barrier for victim-survivors. Risk of further harm often persists

²⁰ Women's Legal Services Australia. (2024). *Submission to the Standing Committee on Social Policy and Legal Affairs: Inquiry into family violence orders* (Submission No. 69). <https://www.wlsa.org.au/wp-content/uploads/2024/08/Sub69-Womens-Legal-Services-Australia.pdf>

beyond the life of an FVO, particularly where criminal proceedings relating to sexual violence can extend over several years. The assessment of ongoing risk should not be limited to whether a respondent has breached an order, as the absence of a breach does not mean the risk has ended. As noted above, as FVOs are only typically granted for a period of 12 months, consideration should be given to establishing longer default periods to reduce the need for repeated extension applications in the first place.

Laurel House also supported the amendment to section 34, which established a presumption that each party bears their own costs. This reform improves equitable access to protection by reducing the risk that victim-survivors will be deterred from seeking or maintaining FVOs due to fear of adverse costs orders and helps address forms of systems abuse involving the misuse of legal processes. As noted elsewhere in this submission, equivalent protections should also extend to applications for ROs, specifically in case where sexual violence is the basis for the application.

The recent reform to reduce the risk of legal costs in applying for an FVO illustrates how legislative change can be undermined in practice where services are not adequately resourced. While funding of legal assistance services sits outside the direct scope of this submission, the current capacity constraints facing free legal services, including Women's Legal Services (WLS) and Community Legal Centres (CLCs), mean that many victim-survivors remain unable to access timely legal advice or representation. This demonstrates that, without corresponding investment in the service system, reforms intended to improve access to protection may have limited practical effect.

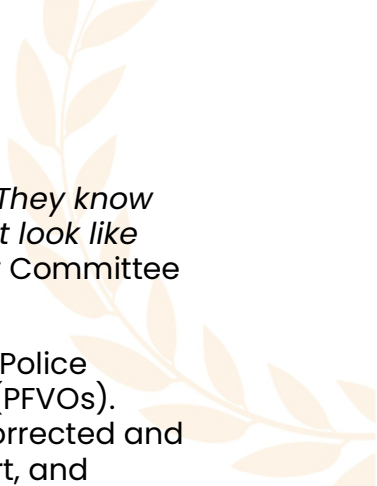
Identifying the person most in need of protection, and Misidentification

Is the person most in need of protection accurately identified by the justice system in Tasmania? If not, at which point in the system is this failing?

In your experience, how frequently are victim-survivors misidentified as the predominant aggressor? In what circumstances has this occurred?

How should cross-orders be managed?

The failure to correctly identify the person most in need of protection is the primary mechanism through which misidentification occurs. This reflects broader systemic dynamics within the Tasmanian justice system, including incident-focused responses, limited recognition of sexual violence within family violence contexts, and inadequate understanding of coercive control.



"This is where it starts. Skilled abusers know the system. They know how to act and what to say when Police arrive to make it look like they are the victim." – Laurel House Policy and Advocacy Committee member

The most critical point of failure occurs during incident-based Police assessments and the issuing of Police Family Violence Orders (PFVOs). Where misidentification occurs at this early stage, it is rarely corrected and instead becomes embedded across subsequent policing, court, and service responses.

"This is quite common in our work at Laurel House. We will often come across victim-survivors that have been misidentified." – Laurel House staff member

A key contributor to misidentification is the systemic failure to recognise sexual violence as a core component of family violence. Sexual assault, sexual coercion, and threats of sexual harm are frequently minimised, overlooked, or treated as separate criminal matters, rather than being recognised as central indicators of coercive control, escalation, and heightened risk.

"Lack of police knowledge or skill, and gendered misconceptions, also contributes to this [misidentification]." – Laurel House staff member

As a result, police assessments may focus on visible or recent physical incidents while overlooking the broader pattern of behaviour within the relationship. In these circumstances, victim-survivor responses to ongoing abuse may be mutualised or misinterpreted as aggression or non-compliance.

"Some common factors [of misidentification] can include a victim-survivor's mental health, drug or alcohol use, and a victim-survivor's extensive history of trauma and abuse." – Laurel House staff member

Right to Information data reported by ABC News indicates that Tasmania Police issue the majority of protection orders in the state, with 13,294 PFVOs issued in the six years to 2022 compared with 8,480 interim and final FVOs made by the Magistrates Court.²¹ The same reporting found that police issued PFVOs against female respondents at more than three times the rate of courts, with women listed as the respondent in almost 30 per cent of PFVOs in the most recent year compared with around 9 per cent of court

²¹ Gleeson, H. (2023, March 5). *Tasmania's police family violence orders are supposed to keep victims safe. But experts say they're backfiring on women.* ABC News. <https://www.abc.net.au/news/2023-03-05/tasmania-police-family-violence-orders-misidentifying-victims/102037672>

orders.²² Courts generally have more information before them and greater opportunity to consider the broader dynamics and nuance of a relationship, which may partly explain this disparity. However, given the well-established gendered nature of family violence, the significantly higher proportion of PFVOs issued against women raises concerns about whether gendered bias and prejudice are influencing police determination of the person most in need of protection during initial police responses.

Victim-survivors who have experienced sustained violence often present with trauma-based responses rather than calm or linear narratives. These responses may include appearing distressed, fearful, emotionally dysregulated, defensive, or hyper-vigilant. Such responses are well-recognised consequences of cumulative trauma. However, within incident-focused policing and court processes they are frequently misinterpreted as hostility, non-cooperation, or aggression, increasing the likelihood that victim-survivors are identified as the predominant aggressor.

"I have seen this in practice, with devastating outcomes. The victim is labelled as the aggressor because they are heightened, emotional, and 'scrambled' in their presentation, while the primary aggressor is cool and calm, with power, influence, conviction, and narcissism. This is exacerbated when the aggressor 'knows the system' and how to 'work it' in their favour." – Laurel House Policy and Advocacy Committee member

The risk of misidentification is significantly heightened for victim-survivors from marginalised and stigmatised cohorts. This includes Aboriginal people, LGBTIQ+ people, sex workers, people with disability, people experiencing mental ill health, people with alcohol and other drug use issues, and people with histories of criminalisation, homelessness, or systemic disadvantage. Many victim-survivors from these cohorts have had prior negative or discriminatory experiences from police and the justice system. Fear, mistrust, or protective self-advocacy in these contexts may be interpreted as adversarial or obstructive behaviour. Trauma responses shaped by cumulative harm and systemic mistrust may therefore be incorrectly understood as indicators of aggression or culpability. Similarly, the dynamics within some of these relationships differ from 'traditional norms' leading to further risk of misidentification. For example, misidentification of the predominant aggressor in LGBTQA+ relationships occurs when police or service providers wrongly identify a victim-survivor as the perpetrator due to heteronormative biases, stereotypes, and homophobic or transphobia prejudice. This

²² While the available data is presented in binary gender terms, we acknowledge that misidentification may also affect people of other genders, including within LGBTIQ+ communities.

disproportionately affects same-sex couples, trans, and gender-diverse individuals, leaving victims vulnerable to further abuse.²³

The use of mutual or cross PFVOs as an expedient response from Police can further entrench misidentification. Such approaches obscure power imbalances, equalise blame, and fail to recognise that sexual violence and coercive control typically occur as patterns of behaviour rather than isolated incidents. Some Laurel House staff members described mutual PFVOs as, “*lazy risk assessment*.” The perceived equalisation of blame for violence, and the “*toxic relationship*” narrative it can foster (where both parties are characterised as “*as bad as each other*”), can have ongoing and serious consequences for the safety of victim-survivors and children.

“How will they [victim-survivor] ask for help again? How will they be able to leave the relationship when the justice system doesn’t believe them?” – Laurel House Policy and Advocacy Committee member

When legal systems, including the criminal justice system, family law, and civil proceedings, rely heavily on assessments of credibility, mutual orders can undermine a victim-survivor’s account of events before they have even had the opportunity to give evidence.

Many victim-survivors do not contest misidentification due to the cost, stress, and unpredictability of court processes, fear of retaliation or escalation, and the risk of further systems abuse. Where misidentification results in criminal charges, some victim-survivors plead guilty rather than not guilty to have matters resolved quickly and minimise further engagement with the justice system. These reasons mean it is often difficult to establish precise numbers for how often misidentification occurs in Lutruwita/Tasmania.

The “*Engender Equality Misidentification of the Predominant Aggressor Research Discussion Paper*” identifies additional dynamics of misidentification that warrant explicit consideration:²⁴

- Misidentification is not confined to police decision-making and can be reinforced across health, child safety, counselling, and other service systems, entrenching incorrect narratives over time.
- Risk is heightened where the person using violence has institutional knowledge or credibility, including connections to policing, enabling them to manipulate processes and be perceived as more reliable.

²³ https://rainbowhealthaustralia.org.au/media/pages/research-resources/opening-doors-ensuring-lgbtqi-inclusive-family-domestic-and-sexual-violence-services/2724729652-1709686055/arcshs_openingdoorsresearchreportfa.pdf

²⁴ Engender Equality. (2022, December). *Misidentification of the predominant aggressor: Research discussion paper*. <https://engenderequality.org.au/wp-content/uploads/2023/07/Engender-Equality-Misidentification-of-the-Predominant-Aggression-Research-Discussion-Paper-2023.pdf>

- Misidentification can have significant psychological impacts, with some victim-survivors internalising the perpetrator label and beginning to doubt their own experiences.
- Once misidentified, victim-survivors may disengage from police and avoid future help-seeking, undermining the protective intent of the system.
- Disability-specific pathways to misidentification require closer attention, including the exploitation of physical disability and the misinterpretation of communication differences, including for autistic victim-survivors, in frontline responses.

The consequences of misidentification are severe. Victim-survivors who are incorrectly identified as the aggressor may be subject to PFVOs, criminal charges for breaches, exclusion from specialist family and sexual violence services, and adverse outcomes in family law proceedings. Misidentification can also increase vulnerability to systems abuse, including financial, procedural, and legal harm – which we further explore below. Once embedded within police records and court processes, misidentification can shape subsequent risk assessments and decision-making across multiple systems.

Recommendations

50. Strengthen identification of the person most in need of protection in police responses

Introduce strengthened legislative guidance, operational policy and training for Tasmania Police to improve identification of the person most in need of protection when issuing PFVOs. Decision making should require officers to assess patterns of coercive control, sexual violence, and power imbalance across the relationship rather than relying primarily on incident-based assessments.

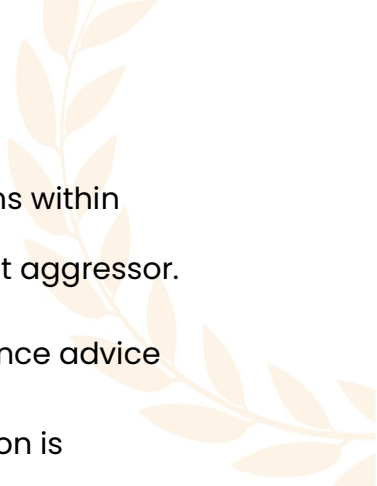
51. Improve recognition of sexual violence within family violence risk assessments

Develop training and operational guidance requiring police and courts to recognise sexual violence, sexual coercion and threats of sexual harm as central indicators of coercive control and elevated risk. Risk assessments should explicitly consider these forms of harm when determining the person most in need of protection.

52. Reduce reliance on mutual or cross PFVOs

Develop clear operational guidance limiting the use of mutual or cross PFVOs to exceptional circumstances where there is clear evidence that both parties have independently used violence. Decision makers should be required to document the rationale for issuing cross orders and demonstrate that power imbalances and patterns of coercive control have been properly assessed.

53. Strengthen safeguards against misidentification of victim-survivors



Introduce oversight, supervision and review mechanisms within policing and court processes to identify and correct misidentification of victim-survivors as the predominant aggressor. This should include:

- improved access to specialist family and sexual violence advice during decision making;
- clear pathways to review PFVOs where misidentification is alleged;
- Independent review of all occurrences of cross issuing of PFVOs;
- The ability for police to revoke a PFVO once issued, if there is clear evidence it was based on the misidentification of the person most in need of protection.

54. Improve recognition of trauma responses in police and court processes

Provide training and practice guidance to ensure that trauma responses including distress, fear, emotional dysregulation and defensive behaviour are not misinterpreted as aggression or culpability when assessing the predominant aggressor.

55. Strengthen culturally safe and inclusive responses to reduce misidentification

Develop targeted training and guidance to reduce the risk of misidentification for victim-survivors from marginalised and stigmatised cohorts, including Palawa/Aboriginal people, LGBTIQ+ people, people with disability, and people experiencing mental ill health or substance use issues. Such training should:

- account for systemic mistrust of police and legal systems;
- include information about prior experiences of discrimination and the ways these factors may shape interactions with police and courts;
- unpack the nuance of these relational dynamics as they differ from 'traditional' understandings of relationships;
- help Police understand stereotypes, and their own conscious and unconscious biases, and how these may contribute to misidentification; and
- be developed in consultation with people who have lived experience of family violence, policing, and intersectional identities.

Systems abuse

Accurate identification of systems abuse

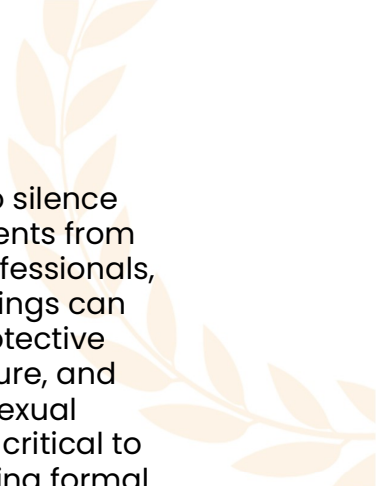
Is systems abuse accurately identified? If not, how could this be improved?

Systems abuse is not currently being accurately or consistently identified in Lutruwita/Tasmania, particularly in matters involving sexual violence and CSA. While there is growing recognition of perpetrator misuse of legal processes, systems abuse continues to be narrowly framed and is often misunderstood as isolated vexatious litigation rather than a broader pattern of coercive control enacted through institutions. This framing fails to capture the lived reality of many victim-survivors of sexual violence and CSA, for whom harm is compounded through repeated, procedural, and institutional actions that replicate the dynamics of the original abuse.

Research demonstrates that perpetrators of sexual violence and CSA frequently weaponise multiple systems including courts, police, child safety services, education, health, mental health, and migration systems to silence disclosure, undermine credibility, maintain or gain access to children, or punish victim-survivors for attempting to seek safety. Engender Equality identifies this as “systems abuse” or “systems harm”, noting that institutional design, professional cultures, and procedural defaults can actively enable this form of abuse, even where there is no explicit malicious intent on the part of individual system actors.²⁵ In sexual violence and CSA contexts, this is particularly evident in the routine use of subpoenas for counselling and medical records, the reframing of trauma-related mental health impacts as evidence of parental unfitness or unreliability, and withdrawing or withholding of consent for a child to access therapeutic support should be recognised as a form of ongoing harm. The family law system, while purporting to act in the best interests of children, is often the mechanism used by perpetrators to cut off a child’s access to therapy, especially in relation to support for CSA related trauma.

“Most [protective parents] (usually women) are instructed by their lawyer to be seen as cooperative and willing for the children to be in contact with the offender, so as not to be seen as obstructing the process. This places enormous pressure on the [protective parent] (usually woman) to allow the children to be coerced and threatened by the offender. It also results in frightened and traumatised children that do not believe the system is protecting them.” – Laurel House staff member

²⁵ Engender Equality. (2023). *Systems abuse: Understanding, responding to and preventing institutional harm*. Melbourne, VIC: Engender Equality.



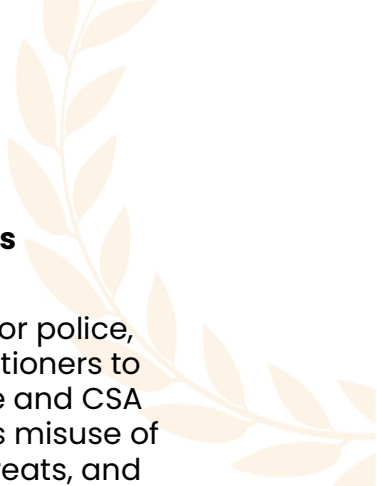
Defamation laws are increasingly being used, or threatened, to silence victim-survivors of sexual violence and to deter protective parents from raising concerns about possible CSA with schools, medical professionals, and other service providers. The threat of defamation proceedings can operate as a powerful form of systems abuse by reframing protective help-seeking as reputational harm, discouraging early disclosure, and isolating children from scrutiny and support. In the context of sexual violence and CSA, this can prevent information-sharing that is critical to child safety and can entrench perpetrators' control by leveraging formal legal mechanisms to suppress legitimate safety concerns.

“Well-funded perpetrators are using this [defamation] as a way of hiding the truth and silencing victims or their advocates. The truth means nothing when the perpetrator has the money to threaten defamation.” – Laurel House Policy and Advocacy Committee member

Current defamation laws sit in direct tension with the findings of the Commission of Inquiry into the Government's Responses to Child Sexual Abuse in Institutional Settings (COI), which emphasised the need to move beyond purely legal responses to CSA. For early identification and prevention to occur, concerned parents and other adults must be able to raise concerns with third parties in ways that are safe for both the child and themselves. Where defamation threats are used to silence or intimidate those attempting to raise concerns, this undermines the systemic reforms the COI identified as necessary to support early disclosure, institutional accountability, and preventative intervention alongside legal responses. Tasmanian legal practitioners report that threatening defamation proceedings is an increasingly used tactic of family violence, especially in the CSA context.

Tasmanian victim-survivors report that disclosures of sexual violence and CSA often trigger credibility assessments rather than protective responses, with system engagement itself becoming a site of further victimisation. The *“With Courage”* report highlights that many victim-survivors experience profound retraumatisation through interactions with justice and service systems, describing these processes as indistinguishable from the original abuse in their impact.²⁶ Improved identification requires an explicit recognition that systems abuse is not ancillary to sexual violence and CSA, but is frequently a continuation of the abuse through institutional means.

²⁶ With Courage. (2022). *With courage: A report into the lived experience of victim-survivors navigating systems after domestic, family and sexual violence*. Government of South Australia. https://www.royalcommissiondfsv.sa.gov.au/_data/assets/pdf_file/0006/1174695/With-Courage-Report.pdf



Recommendations

56. Expand training and guidance on systems abuse across government systems

Develop cross-sector training and operational guidance for police, courts, child protection, health, education and legal practitioners to improve identification of systems abuse in sexual violence and CSA matters. Training should address common tactics such as misuse of subpoenas, litigation abuse, intimidation through legal threats, and attempts to undermine victim-survivor credibility through institutional processes.

57. Strengthen safeguards against the misuse of legal processes in sexual violence and CSA matters

Develop legislative and procedural safeguards to reduce the misuse of subpoenas, records access and other legal mechanisms that may retraumatise victim-survivors or compromise therapeutic relationships. Courts should be required to consider the potential for systems abuse when determining requests for sensitive records in matters involving sexual violence or CSA.

58. Improve protections for individuals raising concerns about sexual violence and CSA

Develop legal and policy protections to ensure that parents, carers, and other concerned adults can raise concerns about possible sexual violence or CSA with schools, health and therapeutic professionals, police, and service providers without fear of retaliatory legal action (including but not limited to defamation).

59. Strengthen system accountability for systems abuse

Establish mechanisms to identify, monitor and respond to systems abuse across justice and service systems, including data collection, complaint pathways and independent oversight.

Audit on Tasmanian systems abuse

The South Australian Royal Commission into Domestic, Family and Sexual Violence recommends that the South Australian government undertake an audit of South Australian systems and services to identify and address the potential for systems abuse and safety breaches. Is this needed in Tasmania? What alternate options could be available?

A comparable audit is clearly needed in Lutruwita/Tasmania, including an explicit focus on sexual violence and CSA. Evidence from Tasmanian specialist services and national research indicates that systems abuse is not confined to one jurisdiction and that state-based systems frequently interact with Commonwealth systems in ways that magnify risk, particularly in family law, child protection, and migration-related matters. The South Australian Royal Commission found that systems abuse can be

pervasive, cumulative, and devastating, particularly where legal and service systems prioritise procedural neutrality over safety and trauma awareness.²⁷

For victim-survivors of sexual violence and CSA, systems failures often manifest as the absence of meaningful checks on how institutional powers are exercised. Engender Equality has emphasised the need for structured, system-wide auditing tools to identify how service design, policies, and practices enable perpetrators to misuse systems and to assess whether agencies are inadvertently causing harm. Without such an audit, these patterns remain individualised and invisible, leaving victim-survivors to navigate harm in isolation.

Recommendations

60. Conduct a whole-of-system audit of systems abuse in Tasmania

Undertake an independent, whole-of-system audit of Tasmanian justice, child protection and service systems to identify how institutional design, policies and practices may enable or perpetuate systems abuse in matters involving sexual violence and CSA.

61. Strengthen oversight of institutional responses to sexual violence and CSA

Establish mechanisms for ongoing monitoring and reporting on systems abuse across justice and service systems, including regular public reporting on systemic risks and reforms implemented to address institutional harm experienced by victim-survivors.

Criminalising systems abuse

Should systems abuse be criminalised in Tasmania? If yes, how? If not, what alternate options could be available?

Irrespective of criminalisation, systems must be deliberately redesigned to prevent misuse and to prioritise safety over procedural convenience. In the context of sexual violence and CSA, this requires a clear shift away from treating systems harm as incidental or unavoidable, and towards recognising it as a foreseeable and preventable extension of abuse. Any legal or policy response in Tasmania must therefore be grounded in a nuanced understanding of how systems function as instruments of control

²⁷ With Courage. (2022). *With courage: A report into the lived experience of victim-survivors navigating systems after domestic, family and sexual violence*. Government of South Australia. https://www.royalcommissiondfsv.sa.gov.au/_data/assets/pdf_file/0006/1174695/With-Courage-Report.pdf

in sexual violence and CSA matters, and how institutional power can either disrupt or entrench harm depending on how it is exercised.

Criminalisation could play an important signalling and accountability role, similar to the introduction of standalone offences such as non-fatal strangulation. However, criminalisation should be understood as only one component of a broader response. While prosecution rates for non-fatal strangulation remain relatively low, its criminalisation has delivered important benefits, including enabling clearer articulation of harm in consent and respectful relationships education, validating victim-survivor experiences, strengthening clinical and allied health responses, and requiring police to recognise and respond to the conduct as a distinct and serious offence. A criminal offence alone is unlikely to address the systemic and procedural conditions that allow perpetrators to weaponise systems to silence disclosure, undermine credibility, or maintain control.

Importantly, where misidentification of the person most in need of protection continues to occur, criminalisation also carries a risk of further harming victim-survivors. In such circumstances, people who are genuinely attempting to seek help, disclose violence, or navigate systems designed to protect them may themselves be exposed to criminal liability.

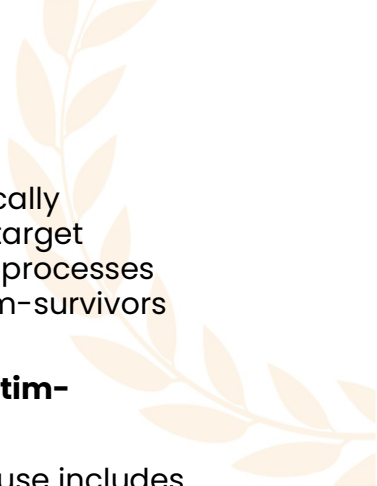
Any response should therefore combine potential criminal sanctions with preventative and structural reforms. This includes improving system capacity to identify patterns of coercive control and systems abuse, strengthening safeguards against vexatious or abusive use of legal processes, and developing civil, regulatory and oversight mechanisms capable of addressing institutional misuse without creating additional risks for victim-survivors.

A final consideration here is the double-edged sword of asking systems to hold perpetrators accountable for systems abuse when the abuse is perpetrated through those very systems themselves. This raises significant ethical risks, including the potential for institutions and individuals within them to act in self-protective ways that minimise, deny, or obscure wrongdoing. Without independent oversight and clear accountability mechanisms, there is a risk that responses will prioritise institutional reputation over victim-survivor safety, or fail to meaningfully address harm. This underscores the need for external scrutiny, trauma-informed safeguards, and avenues for review that sit outside the systems in which the abuse occurs, to ensure that responses do not replicate or entrench the very harms they seek to prevent.

Recommendations

62.Consider a targeted offence addressing systems abuse in family violence matters, specifically including sexual violence and CSA matters

Undertake consultation and legal analysis to assess the feasibility of introducing a narrowly framed criminal offence addressing



systems abuse in the context of family violence, specifically including sexual violence and CSA. Any offence should target deliberate patterns of misuse of legal or administrative processes intended to intimidate, threaten, silence or control victim-survivors or protective parents.

63. Introduce safeguards to prevent criminalisation of victim-survivors

Ensure that any criminal offence relating to systems abuse includes clear and enforceable safeguards to prevent victim-survivors from being inadvertently criminalised, particularly where misidentification of the person most in need of protection remains a systemic risk. These safeguards must account for:

- the disproportionate impact of misidentification on women, and the compounded risk for marginalised groups including Aboriginal people, people with disability, culturally and linguistically diverse communities, LGBTQIA+ people, and those experiencing socio-economic disadvantage
- evidence that these groups experience heightened surveillance and differential treatment within legal systems, increasing exposure to criminalisation, including the overrepresentation of Aboriginal women as respondents despite also being victim-survivors
- the risk that new criminal offences will entrench existing patterns of overcriminalisation and systems harm, particularly where legal and administrative systems replicate abusive dynamics and re-traumatise victim-survivors
- the need for legislative and practice safeguards, including:
 - a requirement to identify the predominant aggressor, informed by coercive control
 - explicit defences or exemptions for victim-survivors acting under coercion or in response to violence
 - mandatory training for police, legal practitioners and the judiciary on misidentification and intersectional drivers of criminalisation
 - oversight mechanisms to monitor impacts across different population groups

64. Embed prevention of systems abuse in institutional design and practice

Require justice and service systems to review policies, procedures and decision-making frameworks to ensure they prioritise safety and minimise opportunities for perpetrators to weaponise institutional processes against victim-survivors.

65. Establish independent oversight and accountability mechanisms to address systems abuse

Establish independent, trauma-informed oversight mechanisms to monitor, review and respond to systems abuse, including accessible avenues for complaint and review that sit outside the systems in which the abuse occurs. Such mechanisms should be designed to mitigate risks of institutional self-protection, ensure transparency in decision-making, and prioritise victim-survivor safety over reputational or procedural interests.

Improving the framework for coercive control

How could the current framework be improved to better address patterns of coercive and controlling behaviour?

The current framework could be strengthened by improving how patterns of coercive and controlling behaviour are recognised and assessed in the context of sexual violence and CSA within family violence. The FVA already recognises forms of non-physical abuse, including emotional and financial abuse. These provisions capture aspects of behaviour that closely resemble coercive and controlling conduct. However, they do not fully capture the breadth of coercive control, particularly where sexual violence is used as a tactic within a broader pattern of domination and control.

Sexual violence is not always an isolated criminal act. In many abusive relationships it operates as a deliberate mechanism of coercive control, used to assert dominance, punish resistance, enforce compliance, or reinforce power over a victim-survivor. Research from the Australian Institute of Criminology shows that sexual violence frequently occurs alongside coercive control, with around one-third (30%) of women who experienced coercive control also reporting sexual violence by a partner (and given underreporting of sexual violence generally, rates in reality are likely to be much higher).²⁸

The use of sexual violence frequently involves humiliation, degradation and intimidation, and functions to shame victim-survivors and undermine their autonomy. In this way, sexual violence is intrinsically linked to coercive control. While sexual violence will almost invariably cause emotional and

²⁸ Boxall, H., Morgan, A., & Brown, R. (2021). *Experiences of coercive control among Australian women* (Statistical Bulletin No. 30). Canberra, ACT: Australian Institute of Criminology. https://www.aic.gov.au/sites/default/files/2021-03/sb30_experiences_of_coercive_control_among_australian_women_v2.pdf

often physical harm, its significance within family violence dynamics is not limited to the emotional and physical abuse. Its use as a tool of control, punishment, or threat reinforces patterns of coercion that may not be fully captured by existing provisions relating to emotional or financial abuse.

Case study – coercive control and sexual violence

A victim-survivor described a situation where her partner restricted her ability to increase her work hours, explicitly linking this to his expectation that she remain available for sexual access.

The impact extended well beyond emotional or financial harm. Limiting her working hours reduced her opportunities to spend time outside the home, constrained her ability to maintain social connections and seek support, and undermined her career progression and professional identity. It also functioned to increase her isolation and reinforce compliance with sexual demands.

This example illustrates how coercive control can operate through sexual entitlement and regulation of a person's time, mobility and autonomy. It highlights the need for the FVA to recognise coercive control as encompassing a broader range of behaviours than those traditionally framed as emotional or financial abuse, including the use of sexual access as a tool of control.

Sexual violence is often not an isolated act, but a deliberate mechanism of coercive control used to assert dominance, enforce compliance and undermine autonomy. This includes reproductive coercion, such as contraceptive sabotage, pregnancy coercion, or controlling pregnancy outcomes, which directly interferes with bodily autonomy and decision-making. These forms of abuse are frequently cumulative, subtle, and may not be identified without targeted inquiry, yet they play a central role in patterns of control.

The framework should also recognise that coercive and controlling behaviour is not limited to intimate partner relationships. Sexual violence and related patterns of control can occur across a range of familial and kinship relationships, including between siblings, extended family members, and within other family or chosen family structures. Ensuring the framework reflects these dynamics would improve the capacity of systems to identify and respond to abuse that does not fit traditional intimate partner models of family violence.

CASE STUDY: Sexualised coercive control outside of an IPV

Leah (14) and Daniel (19) are siblings who live in the same family home. Following their single mother's illness, Daniel takes on a lot of the household responsibility including access to finances, Leah's education, and connection with other family members outside the home.

Daniel begins to exert control over Leah by limiting her access to social and family connections, financial support, food, and other necessary daily living supports. He coerces Leah into undressing for him and takes photos of her.

Daniel uses the existence of these images to coerce Leah, exercise control and domination over her, including for sexual acts, threatening to publish the images on the internet and share them through her social networks if Leah does not comply.

In addition, responses to incidents should incorporate risk assessment approaches that identify patterns of behaviour over time rather than assessing individual events in isolation. In the context of sexual violence and CSA, this includes recognising indicators such as ongoing sexual coercion, intimidation, humiliation, reproductive coercion, or other forms of sexualised control. The Australian Child Maltreatment Study (ACMS) identified that CSA frequently occurs in contexts where perpetrators exercise power, authority and control over children, particularly in familial or trusted relationships.²⁹ Without a pattern-based approach that incorporates explicit sexual violence indicators, the cumulative nature of coercive and controlling behaviour may be overlooked, limiting the effectiveness of protection and intervention responses.

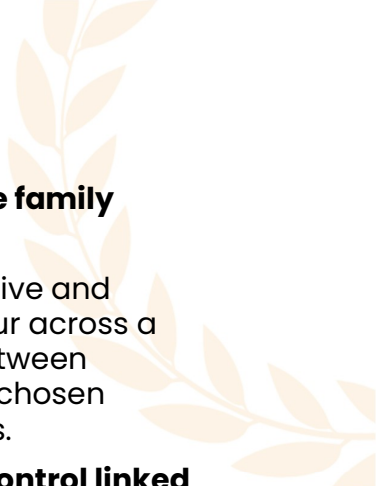
Strengthening practitioner capability is also critical. Police, courts and other frontline responders require improved training to recognise how sexual violence can function within broader patterns of coercive control in family violence contexts.

Recommendations

66. Introduce pattern-based risk assessment approaches in family violence responses

Develop operational guidance requiring police, courts and frontline services to assess patterns of behaviour over time rather than relying solely on incident-based responses. Risk assessments should explicitly include indicators of sexual coercion, intimidation, humiliation and other forms of sexualised control, abuse, and violence.

²⁹ Mathews, B., Pacella, R., Scott, J. G., et al. (2023). *The Australian Child Maltreatment Study: National report*. Brisbane: Australian Child Maltreatment Study.



67. Improve recognition of coercive control across diverse family relationships

Ensure that guidance and training recognise that coercive and controlling behaviour linked to sexual violence can occur across a range of familial and kinship relationships, including between siblings, extended family members and other family or chosen family structures, not solely within intimate partnerships.

68. Strengthen workforce capability to identify coercive control linked to sexual violence and CSA

Develop specialised training for police, courts and frontline responders to improve recognition of how sexual violence can operate within broader patterns of coercive control, including reproductive coercion, in family violence and CSA contexts. Training should support practitioners to identify cumulative harm and patterns of domination that may not be visible through isolated incidents and be developed and delivered in partnership with specialist sexual violence services.

69. Introduce a coercive control offence with appropriate safeguards and system alignment

Subject to careful design, introduce a specific criminal offence addressing patterns of coercive and controlling behaviour, including where sexual violence and reproductive coercion forms part of that pattern. This reform should be implemented alongside the following measures:

70. Embed safeguards to reduce misidentification

Ensure the offence is supported by clear statutory guidance requiring consideration of patterns of behaviour, context, and power imbalances when identifying the person most in need of protection, to reduce the risk of victim-survivors being misidentified as respondents.

71. Mitigate risks of disproportionate criminalisation

Incorporate safeguards, including prosecutorial guidance and oversight mechanisms, to reduce the over-criminalisation of marginalised and stigmatised cohorts, including Aboriginal women, CALD and CARM people, people with disability, and LGBTIQ+ people.

72. Position criminalisation within a broader system response

Ensure that any offence operates as one component of a wider, integrated response, including access to specialist sexual violence services, therapeutic supports, and early intervention pathways, so that criminalisation does not displace non-criminal options.

73. Establish monitoring and review mechanisms

Introduce processes to monitor the operation and impacts of the offence, including impacts on misidentification, access to protection, and outcomes for marginalised groups, with capacity for ongoing refinement.

Stalking and bullying

Do you think amendments are needed to the stalking and bullying provisions in section 192 of the *Criminal Code*? What do you suggest?

The current definition of stalking in section 192 of the *Criminal Code* requires proof that the conduct was carried out with the intent to cause physical or mental harm. In practice, this threshold can be difficult to establish, particularly in cases involving patterns of coercive or intimidating behaviour where harm is foreseeable but not explicitly intended. Aligning the stalking provision more closely with the approach used in the emotional abuse provisions of the FVA would better capture conduct where a person knows, or ought reasonably to know, that their behaviour is likely to cause distress, fear or harm.

Recommendations

74. Amend the mental elements of the stalking offence

Amend section 192 of the *Criminal Code* to expand the definition of stalking so that liability may arise where a person knows, or ought reasonably to know, that their conduct is likely to cause physical or mental harm, distress or fear, rather than requiring proof of a specific intent to cause harm.

Reviewing the definition of ‘harassing’

Amending the definition of harassing

Should the definition of ‘harassing’ be amended? If yes, what could an amended definition look like?

In short, yes, the definition of harassing should be amended, specifically to address sexual harassment.

Section 4 of the Act defines “harassing” through a list of specific behaviours, many of which relate to modes of contact, publication, surveillance, or conduct likely to cause apprehension or fear. Some forms of sexual harassment may already fall within this definition. For example, sending sexually explicit or degrading material could be captured as “offensive material”, and repeated unwanted sexualised communication may fall within provisions relating to electronic contact or unwelcome

communication. These inclusions will rely on arbitrary and varying judicial interpretation and discretion, however, meaning that some forms of sexual harassment may not be included within the definition.

There is also a potential gap. Sexual harassment does not always manifest as repeated contact or conduct that causes fear. It can include sexually degrading comments, humiliating behaviour, coercive sexual propositions, or conduct that creates an intimidating or hostile environment. Such behaviour may cause distress, degradation, or coercive pressure without necessarily meeting a threshold of “apprehension” or “fear”. The current framing risks narrowing the interpretation of “harassing” in a way that may not fully reflect the lived experience of sexualised abuse within family violence contexts.

Sexual harassment within intimate and family relationships frequently operates as a mechanism of coercive control, humiliation, and boundary erosion, as outlined above. If the legislative intention is to capture patterns of non-physical abuse and coercive conduct, clearer recognition of sexual harassment would strengthen consistency and understanding in practice.

Recommendations

75. Clarify sexual harassment within the definition of harassing conduct

Amend section 4 of the FVA to expand the definition of “harassing” to explicitly include unwelcome conduct of a sexual nature. This should include conduct that is sexually explicit, degrading, humiliating or coercive, and that a reasonable person would expect to cause distress, humiliation, degradation or coercion.

Addressing harassing behaviour in the FVA

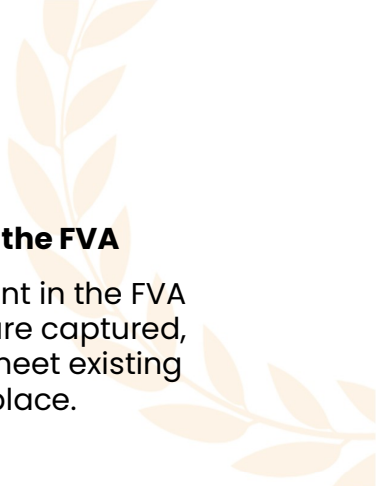
Should harassing behaviour be addressed further in the *Family Violence Act*? If yes, how else could it be addressed?

Generally, we agree that, yes, harassing behaviour should be addressed further in the FVA.

This would need to happen to avoid instances outlined in the discussion paper such as behaviour failing to meet the currently high threshold being overlooked by the justice system such as where harassment occurs in circumstances where there is not a PFVO issued against one of the parties.

We believe the definitions and approaches in this legislation should be designed to cover as broad a scope of harassing behaviours as possible, including explicitly sexual harassment as outlined above, in ways which are clear and explicit and reduce ambiguity, loopholes, or misinterpretation.

It is however, beyond the scope of our expertise to make recommendations about how this should happen within legislation.



Recommendations

76. Strengthen recognition of harassing behaviour within the FVA

Review and expand the provisions relating to harassment in the FVA to ensure that a broad range of harassing behaviours are captured, particularly in circumstances where conduct may not meet existing thresholds for criminal offences or where no PFVO is in place.

Introducing judicial directions for family violence offences

Expanding section 371A of the *Criminal Code*

Should the operation of section 371A of the *Criminal Code* be expanded to allow judges to make directions for family violence offences? Why? Why not?

We understand that the current section allows judges to make directions for family violence offences already. This section does not, however, indicate how or when judges actually make those directions and there has been some stakeholder concern that this often happens too late in the trial process as to be useful or influential for juries. Another limitation is that the trigger for such directions relies on the current definition of family violence which, as outlined above, we argue is far too narrow.

A useful amendment to section 371A could include, as we outline below, making such directions mandatory rather than discretionary given the that misunderstandings about family and sexual violence are widespread and it is inherently useful information for a jury to make informed decisions.

“Variation between magistrates and judges is vast. Too many err on the conservative side and do not make the directions, even when necessary.” Laurel House Policy and Advocacy Committee member

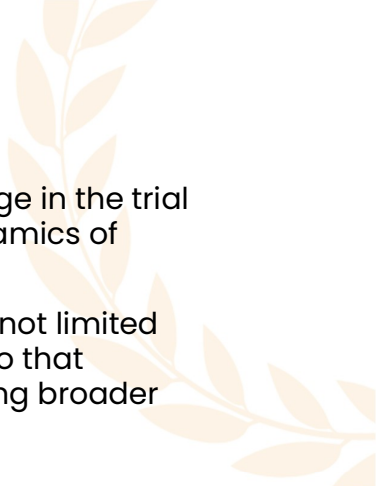
Whether or not the giving of these directions becomes mandatory, we believe judges should be directed to make such directions early in the case to frame the thinking of juries throughout the process.

Recommendations

77. Strengthen the operation of judicial directions in family violence matters

Amend section 371A of the *Criminal Code* to strengthen the use and effectiveness of judicial directions in family violence prosecutions. Consideration should be given to:

- making the provision of judicial directions mandatory, rather than discretionary, in matters involving family violence offences;

- 
- requiring such directions to be given at an early stage in the trial to assist juries to appropriately understand the dynamics of family and sexual violence; and
 - ensuring that the availability of judicial directions is not limited by the current narrow definition of family violence, so that relevant directions can be provided in cases involving broader patterns of coercive and controlling behaviour.

Proposed section 371B

A proposed ‘section 371B Directions in relation to recent complaint and family violence offences’ can be found at Attachment 3 at the back of the paper. What do you think of this proposed section? Do you have any concerns or suggestions as to how it could be improved?

The proposed section 371B appears reasonable in its intent and structure. However, we are concerned that the current drafting makes the giving of these directions discretionary. Leaving the provision to judicial choice risks inconsistent application and reliance on individual judicial approaches, particularly in a context where we know the dynamics of family and sexual violence are widely misunderstood.

We note that section 371A provides that a judge “shall” give the relevant direction where the statutory trigger is met. The use of “shall” is generally interpreted as creating a mandatory obligation rather than a discretion. However, section 371A is only enlivened where there is evidence tending to suggest an absence of complaint or delay in complaint, meaning it does not operate in all cases.

In contrast, the matters addressed by proposed section 371B are broadly applicable to family violence contexts and reflect well-established evidence about the dynamics of coercive control, delayed disclosure, and victim-survivor behaviour. For that reason, we consider that subsection (4) of proposed section 371B should require, rather than merely permit, the giving of such directions.

Making the direction mandatory would promote consistency, reduce reliance on arbitrary discretion, and ensure that juries are properly informed about the contextual features of family violence in all relevant trials, not only in cases where absence or delay in complaint is raised.

Recommendations

78. Strengthen the operation of proposed section 371B judicial directions

Amend the proposed section 371B of the *Criminal Code* to ensure that judicial directions relating to recent complaint and family violence offences are mandatory rather than discretionary.

Image-based abuse

Distributing intimate imagery

Should the *Police Offences Act* include threats to distribute intimate imagery? How could this be done?

While this submission is made in the context of the review of the FVA, image-based abuse is a form of sexual exploitation and coercive harm that frequently occurs outside intimate partner or family relationships. Victim-survivors may be targeted by acquaintances, former partners, peers, colleagues, clients, or strangers, including in online environments.

Legislative reform must therefore avoid a relationship-based threshold that would exclude many victim-survivors from protection. Any strengthening of the *Police Offences Act 1935 (Tas)* should operate alongside, and consistently with, family violence reforms, ensuring comprehensive protections regardless of the nature of the relationship between the victim-survivor and the perpetrator.

Threats to distribute intimate imagery should be expressly criminalised under the *Police Offences Act 1935*. Threats to share intimate images are widely used as a mechanism of coercion, control, intimidation, humiliation, and punishment, as outlined in the case study above under the section on coercive control.

“Once the threat has been made, the harm has commenced, and will continue to be a cloud of doubt, power, and control [over the victim-survivor]. The potential for follow-through continues, even once the relationship has ceased, the burden will be forever present. This is long-term harm.” – Laurel House Policy and Advocacy Committee member

The harm occurs at the point of the threat, regardless of whether the image is ultimately distributed. Victim-survivors frequently experience sustained fear, anxiety, behavioural restriction, and reputational harm when such threats are made, which mirrors the dynamics and impacts of other recognised coercive offences.

Recommendations

79. Introduce an offence addressing threats to distribute intimate images

Amend the *Police Offences Act 1935* to create a specific offence capturing threats to distribute, publish, transmit or otherwise make available intimate images. The offence should:

- apply regardless of whether the person making the threat actually possesses the image;

- apply regardless of whether the image exists, is “genuine,” has been altered, or has been created by another means (e.g. Deep Fake technology or other Artificial Intelligence technology);
- apply where the threat is explicit, implicit or conditional, including where it is used to compel or control behaviour; and
- apply across all communication methods, including digital platforms, messaging services and threats conveyed through third-party intermediaries.

Clarification of privacy

Should the ‘circumstances where a reasonable person would expect to be afforded privacy’ be clarified? If yes, how?

This concept should be clarified to reduce ambiguity and improve consistent application. Current formulations risk narrowing protection by focusing on physical location or the way the image was created, rather than the nature of the image and the expectations attached to its use.

Recommendations

80. Clarify reasonable expectation of privacy for intimate images

Amend the *Police Offences Act 1935* to clarify that a reasonable expectation of privacy attaches to the content, creation, and context of the image, not merely the setting, including where:

- The image depicts a person who is nude, partially nude, or engaged in sexual activity; and
- the image was created, shared, or obtained in circumstances where the person reasonably expected it would remain private, regardless of:
 - the physical location in which the image was taken;
 - whether the image was self-generated; or
 - whether it was initially shared consensually with another person.

Consent to publish or distribute

Should section 13B of the *Police Offences Act* be amended to clarify that consent to publishing or distribution is a lawful and reasonable excuse? If clarification is needed, how could this be done?

Current provisions rely on the concept of a “lawful and reasonable excuse” to determine when the distribution of intimate images constitutes an offence. However, the legislation does not clearly articulate the role of



consent within this framework, particularly whether consent must extend to the act of distribution, rather than merely the creation of the image. This creates ambiguity and potential gaps in protection, especially in circumstances where images are obtained consensually but later shared without consent. Clarifying the meaning and scope of consent in this context is therefore critical to ensuring the law effectively captures image-based abuse while remaining appropriately targeted.

While Laurel House is supportive of a “lawful and reasonable excuse” defence, any legislative changes must embed strict and explicit limits grounded in a clear and contemporary understanding of consent as an active, ongoing, and contextual process, rather than a fixed or one-time agreement.

Legislative clarification is necessary to prevent narrow or outdated interpretations of consent that fail to account for power imbalances, coercive contexts, fear-based compliance, or the cumulative erosion of consent over time. In the context of image-based abuse, consent must be understood as something that is freely given, informed, reversible, and specific, and that may be withdrawn or constrained as circumstances change.

Emerging forms of technology-facilitated abuse further expose gaps in the current legislative framework, particularly in relation to AI-generated or “deepfake” intimate images that depict a person’s likeness without their consent. While some Australian jurisdictions have clarified that image-based abuse offences extend to altered or fabricated images, Tasmania’s current provisions under the *Police Offences Act 1935 (Tas)* were not designed with synthetic media in mind. As a result, there is uncertainty as to whether the creation, possession, or threatened use of AI-generated sexual images would be captured, particularly where no original image exists. In practice, these images may be used as a tool of coercive control, enabling perpetrators to threaten reputational, social, and sexual harm without ever needing to have obtained a real image. This conduct reflects the same dynamics of power, control, and intimidation that underpin family and sexual violence and should be clearly recognised within the legislative framework.

Legislative reform clarifying consent in relation to image-based abuse must be accompanied by simultaneous, sustained investment in community education informed by specialist sexual violence expertise including lived experience. Without parallel education and resourcing, there is a significant risk that reforms will be misapplied, misunderstood, or used to reinforce harmful myths, including that consent is permanent, implied, or forfeited through prior behaviour. Legislative change alone is insufficient to shift entrenched cultural misunderstandings about consent.

Recommendations

81. Strengthen the definition of consent for the distribution of intimate images

Amend section 13B of the *Police Offences Act 1935* to clarify that consent must be:

- freely and voluntarily given, without pressure, manipulation, fear, or expectation of negative consequences;
- explicit and informed, requiring an active agreement rather than assumption, absence of objection, silence, or acquiescence;
- contemporaneous, meaning it must exist at the time of the specific act of publication or distribution;
- specific, including to the particular image, purpose, audience, platform, and form of distribution; and
- able to be time-bound, meaning that it can be provided for a specific period of time, and expires thereafter.
- The legislation should also explicitly recognise consent as a continuum, including that:
 - consent may be limited, conditional, or time-bound;
 - consent given in one context or at one point in time does not automatically extend to future or different contexts;
 - consent may be withdrawn at any stage, including after an image has been created or previously shared; and
- compliance, silence, freezing, or failure to object must not be interpreted as consent.

The provision should further clarify that:

- consent to the creation of an intimate image does not imply consent to its publication, sharing, or distribution;
- consent is invalid where it is influenced by coercion, threats, pressure, abuse of power, dependency, fear, or exploitation of vulnerability, including emotional, financial, social, or reputational leverage;
- consent cannot be inferred from the existence of an intimate, sexual, or prior relationship; and
- consent is negated where a person does not feel safe or free to refuse.

82. Implement community education and professional training on consent and image-based abuse

Develop and fund community education initiatives in partnership with specialist organisations to strengthen public understanding of consent in the context of intimate images and technology-facilitated abuse. These initiatives should:

- promote a clear and consistent understanding of consent as active, ongoing, freely given and reversible;
- explicitly address myths and misconceptions, including that consent can be assumed, transferred, or inferred from silence, prior intimacy or past sharing of images;
- explain how fear, coercion, power imbalances, trauma responses and social pressures can undermine genuine consent;
- be accessible, inclusive and appropriately tailored for diverse communities, including young people, people with disability, culturally and linguistically diverse communities, and those engaging in digital and online spaces; and
- be delivered alongside mandatory training for police, prosecutors and the judiciary to support trauma-informed, consistent and victim-survivor-centred application of the law.

83. Clarify and expand image-based abuse offences to capture AI-generated content

Amend the *Police Offences Act 1935 (Tas)* to expressly criminalise the creation, possession, distribution, and threatened use of intimate images generated or altered using digital technologies, including AI-generated (“deepfake”) images that depict a person’s likeness without consent. The provision should make clear that an image need not be real or originally captured to constitute an offence, and should recognise the use of such material as a form of coercive control within the FVA framework.

Non-consensual distribution

Should the *Police Offences Act* be amended to address visual recordings that were produced consensually but distributed, or threatened to be distributed, non-consensually? If yes, how could this be done?

Laurel House clinical staff have experience of clients who have approached Police after learning that images or videos of them have been uploaded online, only to be told that no legal action can be taken due to technical limitations in the current law. This is a critical gap requiring explicit legislative reform. A significant proportion of image-based abuse involves images that were created consensually within relationships or personal contexts, but later weaponised. Excluding these scenarios undermines the protective purpose of the legislation and fails to reflect lived experience.

Recommendations

84. Address non-consensual distribution of images created with consent

Amend the *Police Offences Act 1935* to explicitly cover circumstances where an intimate image was created or initially shared with consent but is later distributed, published, or threatened to be distributed without consent.

Deepfake sexual material

Should Tasmania’s legislation be reviewed to better address the creation and distribution of deepfake pornography? If yes, how could this be done?

Is there a difference in legislation addressing *altered* imagery vs. *created* imagery? Which terminology should be preferred? Why?

Section 13C of the *Police Offences Act* makes it an offence to possess prohibited visual recordings – should it likewise be an offence to possess artificially-generated intimate imagery? Why? Why not?

Legislating to address the creation, possession, and distribution of deepfake sexual material

Tasmania’s legislation should be reviewed to better address the creation, possession, and distribution of deepfake sexual material. We define deepfake sexual material in accordance with the Australian Human Rights Commission (AHRC) Submission to the Senate Legal and Constitutional Affairs Committee, which includes: ³⁰

“A digital photo, video or sound file of a real person that has been edited to create an extremely realistic but false depiction of them doing or saying something that they did not actually do or say.”

Legislation should distinguish between altered and created imagery explicitly to avoid any prosecutorial loopholes and provide as comprehensive coverage as possible.

Tasmania’s current legislative framework appears unlikely to adequately capture the creation, possession, and distribution of wholly or partially synthetic altered or created sexual images, including deepfakes generated by artificial intelligence. The reliance on the concept of “visual recording” in the *Police Offences Act 1935* suggests a focus on material derived from observation or recording of a real person, rather than images that are

³⁰ Australian Human Rights Commission. (n.d.). *Submission to the Criminal Code Amendment (Deepfake Sexual Material) Bill*.

https://humanrights.gov.au/_data/assets/file/0024/47283/Australian_human_rights_commission_-_submission_criminal_code_amendment_deepfake_sexual_material_bill.pdf

entirely fabricated using generative technology. This is significantly outdated given the rapid evolution of technology and creates a risk that victim-survivors of deepfake image-based abuse may not be clearly protected under existing State offences. Victim-survivors should not have to rely on Commonwealth law for such protection and should be able to seek justice at the state level.

Given the rapid evolution, accessibility, and misuse of generative AI tools, legislative clarity is critical. Deepfake sexual material is increasingly recognised as a serious form of image-based abuse, causing profound reputational, psychological, and safety harms. The absence of explicit coverage may create uncertainty for victim-survivors, law enforcement, and prosecutors.

Tasmania should review its legislation to ensure it clearly and comprehensively addresses the non-consensual creation, possession, and distribution of sexual material, regardless of whether the material is genuine, altered, or entirely synthetic. In doing so, consideration should be given to aligning State provisions with the recent amendments to the Commonwealth Criminal Code introduced through the Criminal Code Amendment (Deepfake Sexual Material) Bill 2024, as well as with other Australian jurisdictions that have adopted comprehensive definitions of intimate image abuse.

As for the latter half of the first question, we do not propose specific drafting amendments as this is beyond our scope as a specialist sexual support service, but we support reform that ensures the law is comprehensive, future-proofed, and responsive to emerging forms of image-based abuse.

Recommendations

85. Amend the *Police Offences Act 1935* to address artificially generated intimate imagery

Amend the *Police Offences Act 1935* to ensure that offences relating to intimate images clearly apply to material that is altered, manipulated or wholly artificially generated, including deepfake sexual material.

86. Ensure offences apply regardless of whether imagery is an audio/visual recording of a real event

Clarify within the *Police Offences Act 1935* that offences relating to intimate imagery apply regardless of whether the material is an “audio/visual recording” of a real event or generated using artificial intelligence or other digital technologies.

87. Distinguish between altered and wholly created intimate sexual material

Ensure the legislation distinguishes between altered sexual material and wholly created synthetic sexual material to avoid gaps,

ambiguity or prosecutorial uncertainty in relation to emerging forms of image-based and deepfake abuse.

88. Consider extending possession offences to artificially generated intimate imagery

Review whether possession of artificially generated sexual material should constitute an offence in a manner comparable to existing provisions relating to prohibited visual recordings under section 13C of the *Police Offences Act 1935*.

89. Align Tasmanian legislation with Commonwealth and interstate reforms on deepfake abuse

Ensure Tasmanian offences relating to image-based abuse align, where appropriate, with recent Commonwealth reforms and developments in other Australian jurisdictions to support comprehensive, consistent and future-proof legislative responses to emerging forms of image-based abuse.

Unintended consequences of legislation on deepfake sexual material

The use of the term “deepfake pornography” in the discussion paper should be reconsidered. “Pornography” implies adult, consensual sexual activity and is therefore not an appropriate descriptor for this conduct. This is particularly concerning where the material depicts children or young people, as such material must be understood as child sexual abuse material (CSAM). Referring to it as “pornography” risks minimising the harm and obscuring the abusive and exploitative nature of the conduct. This submission encourages the use of “*deepfake sexual material*” as a more accurate term and adopts this terminology throughout.

While in the subsections below we support strengthening criminal offences in relation to deepfake sexual material, criminalisation is a double-edged sword. The criminal legal system has historically both over-criminalised certain demographic cohorts, including young people, First Nations communities, and other marginalised groups, while simultaneously under-protecting victim-survivors of sexual and family violence.

Expanding offences without careful implementation risks reinforcing existing disparities. Young people in particular may engage in HSB using AI-generated imagery without fully understanding the legal and ethical consequences. These behaviours are more appropriately addressed through education, early intervention, and therapeutic responses rather than prosecution, while also balancing the victim-survivors rights to justice (see the above section on HSB for more).

Accordingly, any expansion of criminal offences should be accompanied by prevention strategies, including comprehensive consent and digital

literacy education, public awareness campaigns about the harms of deepfake abuse, and accessible pathways for restorative or diversionary responses where appropriate. A balanced approach must ensure strong accountability for serious harm while avoiding unnecessary criminalisation, particularly of young people, and addressing the underlying drivers of technology-facilitated abuse.

Recommendations

90. Accompany new offences relating to artificial imagery with prevention and diversion measures

Ensure that any expansion of criminal offences relating to artificially generated or altered intimate imagery is accompanied by prevention and early intervention strategies. These measures should include:

- comprehensive consent and digital literacy education addressing image-based abuse and the misuse of generative technologies;
- public awareness initiatives about the harms of deepfake and technology-facilitated abuse; and
- the availability of restorative or diversionary responses where appropriate, particularly for young people who have engaged in HSB, while maintaining accountability for serious harm.

Generating intimate imagery

Should it be an offence to *generate* intimate imagery? If so, how could this be policed (bearing in mind the difficulty in knowing who created the image, the location of the person creating the material, the use of VPNs, etc.)?

In alignment with our above response, it should be an offence to generate intimate imagery where the material depicts, or is reasonably understood to depict, a real person without their consent, including through the use of artificial intelligence or other digital technologies. This reflects the significant harms caused where a person's likeness is appropriated and weaponised as a form of abuse, coercion, or humiliation.

However, we do not support a blanket offence capturing all forms of generated intimate imagery. Where material does not depict an identifiable person, the justification for criminalisation is less clear and risks overreach. In particular, broad offences may have unintended consequences for young people, including neurodivergent and LGBTQIA+ communities, who may engage with digital and sexual expression in ways that are exploratory, non-exploitative, or developmentally normative.

As for the latter half of this question, we do not propose specific policing approaches for this as this is beyond our scope as a specialist sexual

support service. However, we strongly argue that just because a law is hard to police, does not mean it should not be legislated.

Recommendations

91. Introduce a targeted offence for the non-consensual generation of intimate imagery

Amend the *Police Offences Act 1935* to create an offence for the non-consensual generation of intimate imagery where the material depicts, or is reasonably understood to depict, an identifiable person without their consent, including imagery produced using artificial intelligence or other digital technologies, with appropriate safeguards to avoid criminalising consensual, non-exploitative or developmentally normative behaviour.

Threatening to distribute intimate imagery

Should it be an offence to threaten to distribute artificially generated or altered intimate imagery? Why? Why not?

Threats to distribute artificially generated or altered intimate imagery should be criminalised. As outlined above, the harm is not limited to distribution, with threats themselves operating as a form of coercive control. The increasing realism of deepfake technology amplifies their credibility and impact, even where no genuine image exists. Criminalisation would recognise this harm, address a gap in protection, and align the law with contemporary understandings of technology-facilitated abuse.

Recommendations

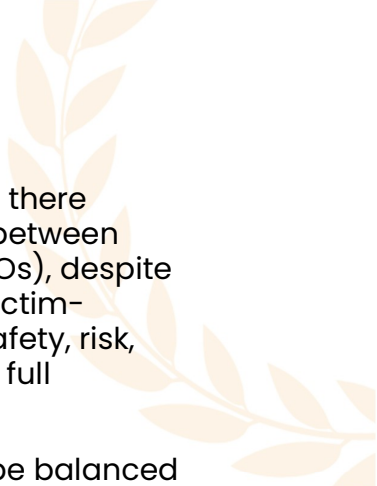
92. Criminalise threats to distribute artificially generated or altered intimate imagery

Amend the *Police Offences Act 1935* to create an offence for threatening to distribute, publish, transmit or otherwise make available artificially generated or altered intimate imagery without the consent of the person depicted. The offence should apply regardless of whether the imagery actually exists or whether the person making the threat possesses the material.

Information sharing between services

Is information shared efficiently between the different parts of the family violence response system? How could it be improved?

Effective responses to family violence depend on timely, coordinated information sharing across the service system. While Safe at Home



agencies have established information sharing arrangements, there remain limited formal mechanisms for information exchange between government services and non-government organisations (NGOs), despite NGOs frequently providing frontline and specialist support to victim-survivors. This creates gaps where critical information about safety, risk, and system engagement is not consistently shared across the full response system.

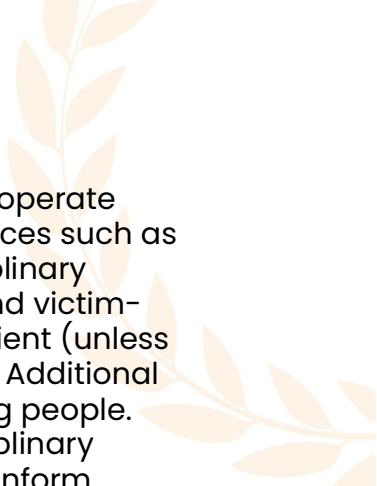
At the same time, any expansion of information sharing must be balanced with victim-survivor autonomy and safety. Non-consensual sharing can deter help-seeking and entrench power imbalances, particularly where individuals do not know who holds their information or cannot correct inaccurate narratives. Reform should prioritise consent-based, transparent approaches that support coordination without undermining trust or agency.

These gaps are particularly evident in legal processes. Victim-survivors often experience difficulty obtaining timely and accurate information about the progress of complaints and legal proceedings, including communication between police, the DPP, legal representatives, and support services. Improving structured information pathways between these actors would strengthen the ability of support services to assist victim-survivors to navigate complex legal processes and reduce the burden placed on complainants to repeatedly explain their circumstances.

“The constant need for the victim-survivor to do all the following up and chasing down information, which should automatically be shared with them in a timely manner, is more weight on the them in an already devastating, confusing and confronting time... it plays back into the victim-survivor vulnerabilities of being a burden, not being heard, being overlooked, power structures, and the distrust in people who are meant to help or protect them.” – Laurel House Policy and Advocacy Committee member

The need for integrated service responses is well recognised in national reform work. The Australian Law Reform Commission’s *Justice System Responses to Sexual Violence* report emphasises that coordinated and integrated services are essential to ensuring victim-survivors do not have to repeatedly recount traumatic experiences when engaging with multiple parts of the justice system.³¹ Integrated approaches, supported by clear information sharing protocols and cross-service collaboration, enable more seamless referrals and a “no wrong door” approach to support.

³¹ Australian Law Reform Commission. (2025). *Justice system responses to sexual violence: Final report*. <https://www.alrc.gov.au/wp-content/uploads/2025/02/JRSV-Final-Report-Book-for-Web-final-20250211.pdf>



Tasmanian practice provides a clear example of how this can operate effectively. The Arch centres, delivered in partnership with services such as Laurel House, demonstrate the value of co-located, multidisciplinary responses where information sharing occurs in a structured and victim-survivor centred way, which includes with the consent of the client (unless there is a significant imminent risk to them or another person). Additional obligations also apply to information about children and young people. While the Arch model demonstrates the potential of multidisciplinary approaches, there is value in drawing on lessons from Arch to inform improved relationships, coordination, and shared practice across the broader family violence system.

Finally, effective information sharing must also support accountability and responsiveness within systems. Practitioners report that when concerns about child safety or ongoing risk are raised but not acted upon, confidence in the system is undermined and reporting may decline. Strengthening formal information sharing mechanisms between government and NGOs, supported by clear protocols, training and resourcing, would help ensure safety concerns are recognised and acted upon consistently across the family violence response system.

Recommendations

93. Establish formal information sharing frameworks between government and non-government services

Develop formalised information sharing frameworks to facilitate timely and structured victim-centred information exchange between government agencies and non-government organisations involved in the family and sexual violence response system.

94. Strengthen multidisciplinary coordination and integration

Draw on lessons from existing multidisciplinary and co-located models, such as Arch centres, to inform improved coordination, relationships, and shared practice across the family violence system. Approaches should support effective, consent-based information sharing between police, legal services and specialist support services, reduce the need for victim-survivors to repeatedly recount traumatic experiences, and promote a “no wrong door” approach to assistance.

Information sharing to improve victim-survivors' sense of safety

Information sharing for safety management

Are victim-survivors given enough information to manage their safety? If not, what other information do victim-survivors need?

While the Eligible Persons Register provides important information to registered victim-survivors, we are not confident that the current scheme consistently provides sufficient, timely, and actionable information to support effective safety planning, particularly in family violence contexts.

The Register is limited in scope. It applies only where an offender has received a custodial sentence and requires a victim-survivor to demonstrate a "genuine and essential need" for access to information. The definitions of what constitute genuine and essential are unclear leaving much scope for discretionary, variable, and arbitrary interpretation of the terms. This creates gaps where implementation may be inconsistent and, in some cases, inadequate.

Many family violence matters do not result in imprisonment, meaning victim-survivors in those cases have no equivalent mechanism for receiving structured updates about changes in the offender's status. This creates a significant gap, particularly given that risk often persists beyond sentencing and may escalate at key transition points. Arguably, the risk is higher in such circumstances where the perpetrator is not detained.

Even where a victim-survivor is registered, the information provided is largely custodial in nature. While this information is important, it does not always provide sufficient context to allow a victim-survivor to assess risk or adjust safety plans. For example, knowing an offender's release eligibility date is not the same as being informed of an actual release date and time, the conditions attached to release, or whether geographic exclusion conditions apply.

We also note that there are exclusions where victim-survivors are not notified in advance of leave notifications in cases of emergency medical and compassionate leave. This is troubling. It is feasible, for example, that if a perpetrator was released on compassionate leave to attend the funeral of a family member, that the victim-survivor may also attend that funeral given the context of the violence being familial. It would be unthinkable harmful for a victim-survivor to turn up to a funeral and be unknowingly confronted with their perpetrator's presence when to their best knowledge they should be in custody. In Tasmania, the same could go for emergency medical leave; given the small population of this state, it would not be unreasonable to expect that a victim-survivor might interact with their perpetrator in a medical capacity should they for example work at or need

treatment from the facility such as a hospital where the perpetrator is taken for treatment.

Recent developments in New South Wales highlight risks where system processes exclude victim-survivors. Media reporting indicates a person imprisoned for CSA accessed Voluntary Assisted Dying (VAD) without victim-survivors being informed, and with alleged access to personal materials (photographs) without their consent. While outside the core scope of this review, this illustrates how institutional processes can replicate harm if safeguards are not in place. Consideration should be given to trauma-informed safeguards, including information sharing and strict limits on access to victim-related materials.

Critically, we are aware of cases in which victim-survivors who were registered did not receive notifications as required. Administrative errors have resulted in individuals being overlooked and not informed of key changes in an offender's custodial status. In one such case, this also meant that the victim-survivor was denied the opportunity to submit a Victim Impact Statement and parole was granted early and without the input of the victim-survivor, thus silencing and disempowering them in ways which replicated the original abuse and caused significant harm. In family violence matters, where risk can escalate rapidly at the point of release or perceived loss of control, failures in notification are not minor procedural issues. They may materially undermine safety planning and increase risk.

Recommendations

95. Expand the scope of the Eligible Persons Register to improve victim-survivor safety

Review and amend the operation of the Eligible Persons Register to ensure victim-survivors receive sufficient, timely and actionable information to support effective safety planning. Reform should consider expanding notification mechanisms beyond custodial sentences to include:

- Expanding notification mechanisms to include relevant community-based orders and supervision arrangements beyond custodial settings;
- Expanding provision of information to include compassionate and emergency medical leave;
- Ensuring that victim-survivors are informed of actual release dates and relevant conditions impacting safety such as conditions of release like geographical exclusion restrictions;
- Embedding stronger administrative safeguards and accountability mechanisms to prevent notification failures; and

- Providing clear referral pathways to specialist support services when notifications are issued, recognising that information alone does not equate to safety.

96. Strengthen the quality and timeliness of information provided through the Register

Ensure that information provided through the Eligible Persons Register includes details that meaningfully support safety planning, including actual release dates and times, relevant release conditions, and any geographic exclusion conditions that may affect victim-survivor safety.

97. Embed referral pathways to specialist support services when notifications are issued

Ensure that notifications provided to victim-survivors are accompanied by clear referral pathways to specialist support services to assist with safety planning and risk management following changes in an offender's status.

Balancing safety with privacy

Where should the balance lie between the victim-survivor's right to safety and the offender's right to privacy?

The balance must be struck in a way that clearly prioritises the victim-survivor's right to safety where there is a foreseeable risk of serious harm.

Offenders should retain privacy rights, including interests in dignity and rehabilitation. However, those rights are not absolute. They must be weighed against the victim-survivor's fundamental rights to life, security of person, and freedom from violence. In family violence matters in particular, risk does not end at conviction or sentencing. It is often dynamic, and can escalate sharply at key points such as separation, release from custody, changes in supervision, or perceived loss of control.

The level of risk in family violence matters is not theoretical. National data consistently shows that intimate partner violence is a leading context for homicide in Australia. A significant proportion of female homicide victims are killed by a current or former intimate partner. Many of these homicides occur in circumstances involving coercive control, separation, or escalating abuse. This evidence underscores that failures in risk recognition and information-sharing can have fatal consequences.

Where a victim-survivor faces a real and ongoing risk of serious harm, withholding safety-relevant information in the name of offender privacy may expose them to preventable danger. In such circumstances, non-disclosure is not a neutral administrative decision. It can materially increase vulnerability, undermine safety planning, and heighten the risk of lethal violence.

Importantly, information provided through a Victim's Register is not public disclosure. It is structured, limited information shared directly with the person against whom the offence was committed. The privacy impact is therefore contained and proportionate. It does not amount to general publication or reputational exposure. Rather, it is targeted disclosure for the specific purpose of enabling safety planning.

We therefore consider that the appropriate balance is one of proportionality: disclosure should be confined to information reasonably necessary to support safety planning, but where that threshold is met, the victim-survivor's right to protection from harm should prevail over the offender's privacy interest.

Recommendations

98. Embed a proportionality principle in victim notification frameworks

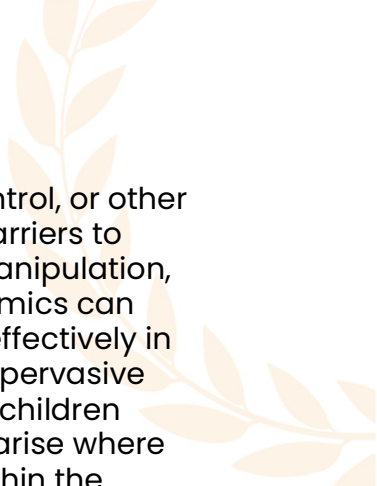
Amend relevant legislative and policy frameworks to ensure that disclosure decisions are guided by a clear proportionality principle, whereby information shared with victim-survivors is limited to that which is reasonably necessary to support safety planning and risk management, while ensuring that privacy considerations do not prevent the disclosure of information required to prevent foreseeable harm.

Supporting children experiencing family violence to give evidence

Should the *Evidence (Children and Special Witnesses) Act* be extended to include children who are victims of physical violence by a parent or carer? Why? Why not?

In principle, we support extending the application of the *Evidence (Children and Special Witnesses) Act 2001 (Tas)* to include children who are victims of physical violence by a parent or carer. The Act recognises that children and other vulnerable witnesses may experience significant distress when giving evidence and provides mechanisms, such as alternative arrangements for giving evidence, to minimise trauma and support effective participation in court proceedings.

This reform should not be confined to physical violence. Prioritising physical abuse risks reinforcing a harmful hierarchy of harm that is inconsistent with victim-survivor experiences. It is well established that victim-survivors often describe non-physical abuse as more difficult to evidence and, in many cases, more enduring in its impact, reflected in the common sentiment "if only they'd hit me", which speaks to the invisibility and minimisation of coercive control and emotional abuse within legal processes.



Children who have experienced emotional abuse, coercive control, or other non-physical forms of family violence may face heightened barriers to giving evidence, including fear, internalised blame, ongoing manipulation, and pressure to protect the person using violence. These dynamics can profoundly shape a child's capacity to participate safely and effectively in court proceedings, often in ways that are less visible but more pervasive than physical harm. Where these protections already apply to children giving evidence about sexual offences, similar considerations arise where a child is required to give evidence about physical violence within the family. Children who have experienced family violence may face comparable risks of harm when participating in court processes, including fear of the perpetrator, anxiety about giving evidence against a parent or caregiver, loyalty conflicts, and the potential for re-traumatisation when recounting abusive experiences in an adversarial setting.

For these reasons, consideration should also be given to extending the scope of these protections to other serious forms of family violence affecting children, including emotional or psychological abuse, where the process of giving evidence may present similar risks of distress and harm.

Recommendations

99. Extend special witness protections to children experiencing family violence

Amend the *Evidence (Children and Special Witnesses) Act 2001* (Tas) to extend special witness protections to children who are required to give evidence about all forms of family violence by a parent or carer.

100. Extend special witness protections to other serious forms of family violence affecting children

Review the scope of the *Evidence (Children and Special Witnesses) Act 2001* (Tas) to consider extending special witness protections to children giving evidence about other serious forms of family violence, including emotional or psychological abuse, where participation in court proceedings may present comparable risks of distress, fear or re-traumatisation.

101. Strengthen access to specialist therapeutic support for children experiencing family violence

Ensure that children who have experienced family violence have timely access to specialist, trauma-informed counselling that is developmentally appropriate and responsive to sexual violence.

Giving evidence separately to the other party

Is there a need to establish vulnerable witness suites with appropriate staffing and technology in a non-court building to facilitate the remote provision of evidence? If yes, how and where could this be done?

Laurel House supports the establishment of vulnerable witness suites that allow victim-survivors to give evidence remotely from locations outside court buildings. Trauma-informed approaches recognise that traditional courtroom environments can be intimidating and retraumatising for victim-survivors, which can affect both the wellbeing of witnesses, the quality of their evidence, and criminal justice outcomes.

Protections enabling remote evidence are already available to victim-survivors in many sexual violence and CSA matters. Expanding similar arrangements to family violence proceedings more broadly would extend the same benefits to a wider group of victim-survivors.

Providing evidence from an Arch centre is possible in Tasmania, but it is not yet used consistently. Laurel House has supported victim-survivors to give evidence remotely in interstate matters, but this is not happening in local cases. In the North and North-West, remote evidence can be provided from Arch centres, which offer a more trauma-informed environment than other options, often located within court buildings. However, these spaces are not being used due to a lack of coordination between agencies. Arch centres operate in partnership with the Department of Police, Fire and Emergency Management (DPFEM), while court matters are managed within the Department of Justice (DoJ), creating practical barriers to their use. *“Family violence is just as devastating and traumatising as sexual assault and CSA. All victim-survivors should be given choice as to how they can, are able to, or want to give evidence.”* – Laurel House Policy and Advocacy Committee member

In addition to remote evidence, more options should be available to help victim-survivors give evidence safely. This includes using pre-recorded evidence, such as recorded interviews, so people can share their account earlier in a safe and controlled setting. These approaches reduce the need to repeat traumatic experiences, limit opportunities for systems abuse through drawn-out proceedings, and support more accurate evidence.

Recommendations

102. Establish vulnerable witness suites to support remote evidence

Establish vulnerable witness suites with appropriate staffing and technology in non-court locations to enable victim-survivors to give evidence remotely.

103. Expand access to remote evidence arrangements in family violence matters

Ensure that arrangements allowing witnesses to give evidence remotely are available in family violence proceedings more broadly, not only in sexual violence and CSA matters, so that victim-survivors can participate in the justice process without unnecessary exposure to intimidating or retraumatising court environments.

Scope of protection from liability for persons informing of suspected family violence

Should the protections in section 39 be extended to include other types of family violence? If so, what other types of family violence should be included?

Laurel House notes that section 39 already provides important protections for individuals who disclose family violence involving sexual violence or situations where a child is affected. However, many early warning signs of sexual violence or CSA relate to patterns of coercive control, grooming behaviours, or escalating conduct that may not yet meet the threshold of physical or sexual violence.

The COI emphasised that preventing CSA cannot rely solely on the criminal justice system, and that community attitudinal change is required to support earlier identification and disclosure of concerning behaviour. Waiting for conduct to escalate to specific criminal conduct before information can be safely shared risks leaving children exposed to preventable harm.

Consideration should therefore be given to extending the scope of section 39 to ensure that good-faith disclosures relating to broader indicators of family and sexual violence are similarly protected. Strengthening these would support the cultural shift identified by the COI, encouraging earlier reporting and intervention rather than waiting for serious harm to occur.

Recommendations

104. Expand protections for good-faith disclosures of family violence under section 39

Amend section 39 of the FVA to extend protections from liability for individuals who disclose information relating to broader indicators of family violence, including patterns of coercive control, grooming behaviours, and escalating conduct that may indicate a risk of sexual violence or CSA.

105. Support early identification and disclosure of risk indicators for sexual violence and CSA

Ensure that protections for voluntary or mandatory disclosures under section 39 apply where a person reasonably believes or suspects that concerning behaviours or patterns of conduct may indicate a risk of sexual violence or CSA, even where physical or sexual violence has not yet occurred.

Comment is welcome on other topics

Do you have any other legislative reform suggestions in relation to the *Family Violence Act* or any other pieces of legislation mentioned in this Discussion Paper?

Police-perpetrated family and sexual violence and oversight mechanisms

Laurel House notes the existence of Tasmania Police processes for responding to family and sexual violence involving police personnel, including the Family and Sexual Violence Involving Police Review Committee. While the establishment of a dedicated mechanism for these matters is appropriate, there is limited publicly available information about the Committee's composition, governance, decision-making processes, and oversight functions. This lack of transparency raises concerns about accountability and community confidence.

In particular, there is insufficient clarity as to whether the Committee includes independent or specialist external representation. A model in which police responses to police-perpetrated family and sexual violence are reviewed primarily or exclusively within policing structures risks undermining confidence in outcomes, particularly for victim-survivors. Laurel House is aware of situations where people using violence have exploited connections to policing or knowledge of justice processes to extend abuse through systems. This includes making strategic complaints, manipulating police responses, and creating barriers to disclosure. This is compounded by sector observations that some matters have been assessed as "unsubstantiated" despite clear indicators of harm and trauma experienced by victim-survivors, including trauma arising from both the abuse itself and subsequent system responses.

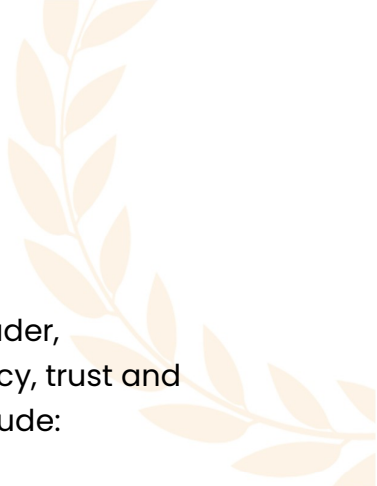
Given the well-documented risks of systems abuse, misidentification, and institutional bias in family violence responses, independent oversight is critical in matters involving police perpetrators. Without meaningful external scrutiny, there is a risk that existing power dynamics are reproduced, and that victim-survivors experience further harm through processes that are perceived as opaque, inaccessible, or lacking procedural fairness.

Recommendations

106. Legislate independent oversight of family and sexual violence matters involving police personnel

Legislate minimum requirements for independent oversight of family and sexual violence matters involving police personnel, including multiple and mandatory external specialist and victim-survivor representation, transparent governance and decision-making processes, accessible complaint pathways, and regular public reporting.

Compiled recommendations



1. Expand the scope of relationships covered by the FVA

Amend the FVA to replace its narrow framing with a broader, function-based definition that centres power, dependency, trust and control. The FVA should explicitly extend coverage to include:

- Children as victim-survivors in their own right
- Extended family members, including siblings, step-relations, intergenerational and blended family arrangements
- Relationships of trust, care and support, including informal and family-based caring relationships, particularly in the context of disability and ageing
- Chosen family and family-like relationships, including queer platonic and other non-sexual partnership structures
- Polyamorous and consensually non-monogamous relationship configurations

The definition should require courts and police to assess the existence of power imbalance, authority, structural dependency, caregiving roles, and coercive control, rather than relying primarily on formal labels such as cohabitation, sexual intimacy, property ownership or financial interdependence.

2. Embed intersectionality as a statutory principle

Amend the FVA to include an objects and principles clause requiring an intersectional, trauma informed and culturally safe response. The FVA should explicitly recognise that overlapping forms of marginalisation shape risk, help seeking, credibility assessments, access to justice, and system engagement, and require decision makers to consider these factors in exercising powers under the FVA.

3. Establish child standing and participation rights in FVA processes

Amend the FVA to explicitly recognise children as victim-survivors and rights-holders with standing to be protected (not merely “affected children”), including:

- the right to be heard (age and developmentally appropriate)
- access to independent advocacy or a support person in proceedings
- development of, and access to, a witness intermediary scheme

- child-friendly information about orders, conditions, and enforcement pathways.

4. Create a therapeutic, non-criminalising FVA response framework for HSB in families

Where HSB occurs within sibling, blended, kinship, or other family contexts, develop an explicit statutory and practice framework that:

- prioritises safety planning and protective mechanisms for the victim-survivor, and
- avoids defaulting to punitive or criminalising responses for children and young people who use HSB, instead enabling therapeutic, trauma-informed interventions and structured service referral.

This should include guidance on when FVOs are appropriate and how to design conditions that do not inadvertently entrench stigma or system contact for children.

5. Align FVA responses to HSB with the Tasmanian Statewide HSB Framework

Ensure that any legislative and practice response to harmful sexual behaviour (HSB) within the FVA is explicitly aligned with, and does not duplicate or undermine, the Tasmanian Statewide HSB Framework being developed by the Department of Children and Young People.

This should include:

- recognising the HSB Framework as the primary mechanism for assessment, intervention and service coordination in relation to children and young people who have used HSB;
- requiring FVA responses to defer to specialist HSB assessment and therapeutic pathways established under that Framework, rather than defaulting to justice-based or order-based responses;
- ensuring that any use of FVOs in HSB contexts is consistent with the principles, thresholds and practice guidance of the HSB Framework, including developmental, trauma-informed and least-restrictive responses; and
- embedding formal referral pathways and information-sharing mechanisms between FVA systems and HSB services to support coordinated, non-duplicative responses.

6. Remove adult-centric “significant relationship” thresholds for children and young people

Amend the definition of “significant relationship” in the *Relationships Act 2003* to ensure children and young people can access protection regardless of whether adult-centric indicators such as cohabitation, property ownership, financial interdependence or public reputation are present, or specifically account for these types of relationships in the FVA.

7. Recognise digital intimacy and technology-facilitated control

Amend the FVA to recognise digital indicators of intimacy and coercive control, including sustained patterns of communication, location sharing, password sharing and online surveillance, as relevant factors in assessing the existence and nature of a relationship, particularly for young people.

8. Create a child-specific access pathway to protection orders

Amend the FVA to provide a clear, child-centred mechanism for children and young people (including under 16) to seek protection where they experience violence in their own relationships, noting current gaps where protections are limited by age and “significant relationship” thresholds. Where matters involve HSB within relationships, responses should be informed by specialist assessment and developmentally appropriate frameworks, ensuring protection for the child experiencing harm while avoiding default reliance on punitive or criminalising legal responses.

9. Recognise chosen family within the definition of family violence

Amend the FVA to ensure that relationships characterised by emotional connection, trust, intimacy, or mutual support are captured within scope, including chosen family structures. Provide that a relevant relationship may be established by the nature and dynamics of the connection between parties, including relational expectations, and is not limited to relationships that involve cohabitation or formal recognition.

10. Recognise polyamorous and non-monogamous relationship structures within the definition of family violence

Amend the FVA to clarify that the existence of multiple or concurrent intimate relationships does not exclude a relationship from protection. Provide that a “relevant relationship” may exist within polyamorous or consensually non-monogamous contexts where

there is emotional connection, trust, intimacy, or relational expectations, and that exclusivity is not required.

11. Address barriers for victim-survivors in polyamorous or non-monogamous relationships

Develop statutory guidance and practice directions to prevent monogamy-based credibility assessments and reduce misidentification of the predominant aggressor in multi-partner dynamics. Training should address stigma, evidentiary challenges in coercive control cases, and systems abuse in non-traditional relationship structures.

12. Ensure protection for sexual violence in casual and dating relationships

Create a clear statutory pathway enabling victim-survivors in casual, dating or short-term relationships to access FVOs and police-issued protection without being diverted into the restraint order regime. This should include equivalent police powers and safeguards against adverse costs exposure.

13. Define “carer or support relationships” within the FVA

Amend the FVA to define “carer or support relationships” to include where a person provides, or is engaged to provide, assistance with daily living, personal care, decision-making support, life administration and financial management, community participation, or other essential supports to another, including arrangements that are paid or unpaid, formal or informal, and those arising under the NDIS, disability, or aged care frameworks. A care or support relationship exists regardless of the degree of dependency, where there is any element of:

- Authority or decision-making influence
- Intimate or personal access to the person, their body, home, or supports; or
- Inherent power imbalance arising from the care or support role

Courts, police, frontline family violence services, and justice system actors must be required to consider:

- Communication barriers, diagnostic overshadowing, and fear of institutionalisation or service disruption;

- Reliance on the perpetrator for care supports (even in independence-promoting or consumer-directed models under the NDIS);
- Principles of choice and control under the NDIS and *Carer Recognition Act 2023 (Tas)*; and
- Risks of misidentification of the predominant aggressor in bidirectional or disability-related dynamics.

14. Expand the definition of family violence to capture abuse within care and support relationships

Amend the FVA to explicitly recognise care and support relationships, especially where a person exercises power through control of supports, services, or decision-making as falling within the scope of family violence as defined in recommendation 13 above.

15. Engage the Disability Commissioner to inform expansion of FVA definitions

Ensure that any expansion of definitions within the FVA is informed by targeted consultation with the Tasmanian Disability Commissioner.

This should include:

- seeking expert input on how relationships involving control over supports, services and decision-making are experienced in practice by people with disability
- ensuring that legislative definitions do not rely on or reinforce deficit-based concepts such as “dependency”, and instead accurately capture how power operates through control of access, communication, and autonomy
- supporting alignment between the FVA and broader disability policy and safeguarding frameworks
- embedding co-design with people with disability, including those with lived experience of sexual and family violence, in the development of any amended definitions

16. Require consideration of age-related risk factors

Amend relevant provisions of the FVA, including those relating to the making of FVOs and PFVOs, to require police and courts to consider age-related risk factors when assessing family violence. This should include factors such as social isolation, cognitive impairment, reliance on others for care and support (paid or unpaid, formal or informal), and the risk or threat of institutionalisation.

17. Recognise misuse of legal decision-making authority as a form of systems abuse

Amend the FVA to clarify that family violence includes the misuse or abuse of decision-making authority, including general and enduring powers of attorney, enduring guardianships, and TASCAT orders (including administration and guardianship orders), used to control, coerce, or exploit a person.

18. Embed migration-related coercion within risk assessments

Require that risk assessment under the FVA explicitly considers migration-related coercion, including visa dependency, threats of deportation and control of identity documents, as indicators of family and sexual violence and coercive control.

19. Strengthen requirements for safe and appropriate interpreter use across all FVA processes

Introduce enforceable obligations that require the use of qualified interpreters at all stages (police, courts, accessing services) where needed, including guidance on managing confidentiality risks in small or close-knit communities.

20. Require accessible, non-written pathways to information and justice processes

Ensure that information about FVOs, reporting, and legal processes is available in audio, video and pictorial formats, as well as in community languages, and is suitable for people with low literacy.

21. Improve system capability to identify sexual violence where it is not named as such

Require training and guidance to ensure that sexual violence in family violence contexts is recognised and responded to even where victim-survivors do not identify the conduct as unlawful.

22. Mandate culturally responsive service delivery standards within the FVA framework

Introduce minimum standards requiring that services responding under the FVA demonstrate cultural capability and responsiveness, engage bicultural workers or community partners where appropriate, and deliver responses that are adapted to cultural context without compromising legal protections.

23. Recognition of Aboriginal and Palawa kinship systems

Amend the FVA to expressly recognise Palawa/Aboriginal kinship systems within the definition of family relationship, and ensure that

any expansion is accompanied by safeguards to prevent overcriminalisation, misidentification and systemic harm, Including:

- genuine, ongoing and adequately resourced consultation with the Palawa/Aboriginal community-controlled organisations in the design, implementation and evaluation of legislative reform.
- Strengthened legislative guidance on identifying predominant aggressors, particularly in the context of coercive control and systemic misidentification.
- Mandatory, ongoing cultural safety and anti-racism training for Police, Magistrates, court staff and legal practitioners.
- Explicit safeguards to prevent the unintended criminalisation of Aboriginal victim-survivors.
- Dedicated and sustained resourcing for Aboriginal community-controlled organisations to provide culturally safe legal, advocacy and support responses. Embed Aboriginal self-determination in legislative reform by requiring partnership with, and leadership from, Palawa/Aboriginal community-controlled organisations in defining and operationalising kinship-based relationships within the FVA.

24. Strengthen implementation through training and specialist pathways

Mandate comprehensive, cross-sector training for police, legal practitioners, judiciary and court staff on the intersection of sexual violence and family violence across diverse cohorts. The development, delivery and evaluation of this training must embed lived experience expertise of both family and sexual violence, recognising the distinct but overlapping dynamics of these forms of harm. Lived experience participation must be:

- Remunerated appropriately
- Trauma-informed and supported
- Diverse and intersectional

25. Legislate service system readiness requirements alongside scope expansion

Include an implementation provision (or accompanying government commitment) that any expansion of relationship coverage and child standing must be matched with workforce and service capacity

measures, to avoid expanding legal pathways that cannot be supported in practice.

26. Resource specialist services to meet increased and existing demand across diverse cohorts

Ensure that any expansion of the FVA is accompanied by sustained investment in specialist family and sexual violence services, recognising that these services are already supporting diverse cohorts (detailed above) under conditions of significant underinvestment and system strain. This should include:

- Core, long-term funding for specialist services (including sexual assault services) to deliver consistent, statewide responses, reducing reliance on short-term or project-based funding arrangements
- Targeted investment in regional and remote service delivery, including workforce attraction and retention strategies, outreach capacity, and infrastructure such as Arch Centres, to address geographic inequities in access
- Resourcing to ensure culturally safe and accessible responses within mainstream specialist services, including for Aboriginal and Palawa communities, migrant and refugee communities, people with disability, LGBTIQ+ communities, and others who experience structural barriers to support

27. Strengthen police-led restraint order applications in sexual violence matters

Develop statutory guidance and operational policy requiring Tasmania Police to proactively consider making restraint order applications on behalf of victim-survivors where sexual violence or threats of sexual violence form part or the basis of the application. This should be supported by specialist training and resourcing to ensure police-led applications are used consistently in matters where victim-survivors face barriers to initiating proceedings themselves.

28. Expand statutory grounds for restraint orders to include sexual violence

Amend section 106B of the Justices Act 1959 to create a specific ground for ROs where sexual violence has occurred or where threats of sexual violence have been made. The occurrence of sexual violence should be sufficient to ground an order, without requiring

applicants to demonstrate that the conduct is likely to occur again or that a threat is likely to be carried out.

29. Support restraint orders operating for the duration of related criminal proceedings

Introduce legislative guidance or Magistrates Court practice directions compelling courts to consider making restraint orders for the duration of related criminal proceedings in matters involving sexual violence or abuse.

30. Restrict the use of conciliation in restraint order matters involving sexual violence

Introduce legislative guidance or court practice directions preventing the use of conciliation in restraint order proceedings involving allegations of sexual violence where parties are unrepresented. Where conciliation occurs in represented matters, it should only proceed with the informed consent of the victim-survivor and in ways that prioritise safety, including through shuttle negotiation, separate rooms or remote participation.

31. Align restraint order costs provisions with those applying to FVO proceedings in sexual violence matters

Amend the *Justices Act 1959* to introduce a presumption that each party bears their own legal costs in restraint order proceedings where sexual violence forms the basis of the application, mirroring the approach under the FVA.

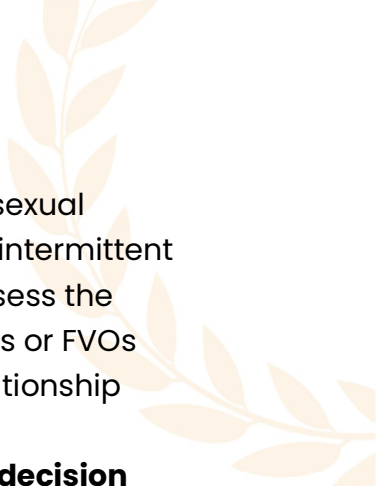
32. Accessible RO application processes for disabled people

Ensure accessible application pathways for ROs for people with disability. This should include the provision of easy-read and accessible forms, access to Auslan interpreters and other communication supports, and procedural safeguards to enable individuals to effectively initiate and participate in applications without reliance on police.

33. Clarify that relationship duration is not determinative of a “significant relationship” under the FVA

Introduce legislative clarification confirming that the duration of a relationship must not be used as a determining factor when assessing whether a relationship is “significant” for the purposes of issuing a PFVO or FVO.

34. Strengthen protections for victim-survivors in short, casual, or emerging relationships



Provide statutory guidance recognising that family and sexual violence may occur rapidly within short-term, casual, or intermittent relationships. Police and courts should be required to assess the nature and dynamics of the violence when making PFVOs or FVOs rather than relying on conventional markers such as relationship duration, cohabitation, or financial interdependence.

35. Require culturally responsive and migration-sensitive decision making in PFVO and FVO assessments

Develop guidance and training for police and courts to ensure that migration status, visa dependency, social isolation, and limited support networks are appropriately considered when assessing risk and protection needs.

36. Strengthen inclusion of children in PFVOs and FVOs

Amend practice guidance and operational procedures to ensure that children are adequately considered for inclusion in PFVOs and interim FVOs where there is evidence of harm, exposure to violence, or ongoing risk. Guidance should:

- require decision makers to explicitly record the reasons where a child affected by the violence has not been included in the order; and
- clarify that the existence of proceedings in other jurisdictions (for example, family law or Child Safety Services) is not, in itself, a valid reason to exclude a child from protection under the order

37. Ensure continuity of protection for children where FVOs expire or are not extended

Develop legislative or procedural safeguards requiring courts and police to assess the ongoing safety of children when an FVO is approaching expiry, particularly where the respondent continues to have contact with the child. This should include mechanisms to prevent gaps in protection where family law or child protection processes have not yet resolved safety arrangements.

38. Ensure continuity of protection for affected children across age transitions

Amend the FVA to provide clarity that where a child is named as an affected child in a PFVO or FVO, the protections afforded by that

order continue for the full duration of the order and do not lapse solely because the child turns 18.

39. Improve procedural information and referral pathways for victim-survivors directed to court

Where police decline to issue a PFVO and instead direct a victim-survivor to apply to the Magistrates Court for an FVO, they should be required to provide clear, accurate and accessible written information about the available legal pathways. This information should explain:

- the difference between an FVO and a restraint order, and which option may be appropriate depending on the circumstances;
- that a respondent will be entitled to receive and review a copy of the application and supporting material;
- the requirements for service of documents;
- that the applicant may be required to attend court alongside the respondent;
- the possibility of being directed to attend a conciliation conference as part of the court process;
- that applications for FVOs do not attract a filing fee, while restraint order applications do; and
- that restraint order proceedings may carry a different risk profile in relation to legal costs.

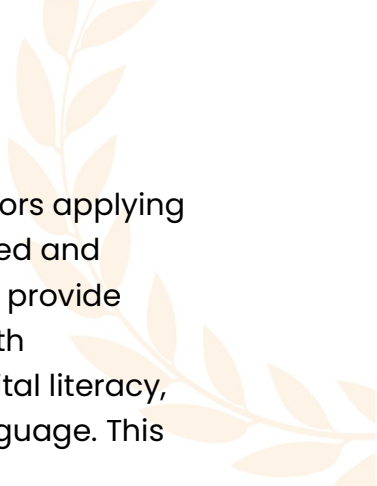
40. Ensure access to independent legal advice or advocacy prior to FVO applications

Establish a referral pathway requiring police and court registries to offer victim-survivors access to independent legal advice, duty lawyers, or specialist advocacy services before lodging a private application for an FVO or restraint order.

41. Improve communication and documentation processes for FVO proceedings

Introduce procedural requirements ensuring that applicants are promptly provided with copies of all PFVOs, interim FVOs, variations, and final orders affecting their safety. Clear administrative processes should ensure victim-survivors are not required to actively chase documentation that is routinely provided to respondents.

42. Strengthen trauma-informed court processes for victim-survivor applicants



Develop court practice guidance to ensure victim-survivors applying for ROs and FVOs are supported through trauma-informed and accessible processes. Guidance should require courts to provide appropriate adjustments and supports for applicants with communication differences, disability, low literacy or digital literacy, and for those who do not speak English as a primary language. This should include:

- the provision of information about court processes in plain language, and in multiple formats, including verbal explanations where needed;
- access to accredited interpreters and translated materials for non-English speakers;
- communication support for people with disability, including Auslan interpreters, communication assistants, and the use of accessible communication tools where required;
- assistance to complete forms and understand documentation for applicants with low literacy or limited digital skills; and
- the availability of support persons or specialist advocates to assist victim-survivors to understand proceedings and participate safely in court processes, especially in cases where a child or young person is a party in proceedings.

43. Strengthen coordinated responses for victim-survivors remaining in relationships with perpetrators

Develop integrated practice guidance across police, courts and specialist services recognising that some victim-survivors may remain in, or maintain contact with, a person using violence.

Responses should prioritise coordinated safety planning, risk monitoring and access to specialist sexual violence and family violence supports rather than assuming separation as the only pathway to safety.

44. Recognise and support protective parenting in responses to sexual violence and CSA

Develop policy, guidance and workforce training for Child Safety Services and other statutory agencies to ensure protective parents are not blamed for harm or risk to a child solely because the child has been exposed to sexual violence or CSA. Responses should recognise the safety strategies protective parents may use to reduce

risk, such as monitoring interactions or limiting unsupervised contact, and prioritise accountability for the person responsible for the abuse.

45. Strengthen assessment frameworks for children exposed to sexual violence and CSA

Require Child Safety Services and related agencies to adopt assessment frameworks that:

- recognise that protective parents may be actively managing risk through strategies that are not always visible to systems;
- consider the risks associated with separation, including the potential loss of a protective parent's ability to supervise or monitor contact with the person responsible for the abuse; and
- account for the limitations and realities of family law processes that may require ongoing contact between children and a person alleged to have used sexual violence or committed CSA.

46. Introduce a legislated minimum duration for FVOs

Legislate a default period of at least 3 to 5 years for FVOs to strengthen baseline protections for victim-survivors and reduce reliance on inconsistent court practices with variations to this period allowed only within strictly limited circumstances.

47. Exceptions to 3–5 year default period

Legislate factors that **cannot** be considered by a court in exercising their discretion to make an FVO of less than 3–5 years duration, to include::

- The existence of comparable bail or parole conditions of a respondent
- The relocation of the applicant, respondent, or affected person to a State outside Tasmania
- Evidence of “good character” or “good reputation,” community standing, employment status, or professional role
- A lack of a criminal conviction in relation to family or sexual violence
- The absence of prior FVOs, criminal charges, or formal complaints against the respondent
- The absence of physical injury, especially where the family violence is sexual, emotional, or technological, or whether the offending involves grooming or exploitation

- The respondent's consent to the making of the order without admission
- The existence of shared parenting arrangements
- The victim-survivor's continued communication or relationship with the respondent
- Any perceived "failure" of the victim-survivor to leave the relationship

48. Provide for lifetime or indefinite FVOs in high-risk matters

Legislate for lifetime/indefinite FVOs where a perpetrator is subject to a Serial Family Violence Perpetrator declaration or where sexual violence is an element of the family violence with variations to this period allowed only within strictly limited circumstances.

49. Mandatory consideration of section 68R powers in matters involving sexual violence

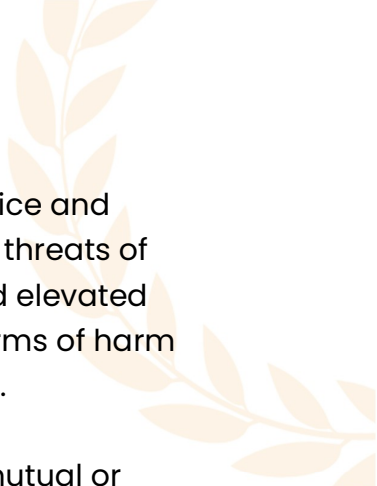
Amend the FVA to require that, where a Court is determining an application for an FVO and there are existing parenting orders in force under the *Family Law Act 1975 (Cth)*, and the allegations involve sexual violence or child sexual abuse, the Magistrate must consider whether to exercise their powers under section 68R of the *Family Law Act 1975 (Cth)* to revive, vary, suspend or discharge those parenting orders to ensure the safety of the child and the non-offending parent or carer. The FVA should further require that the Magistrate:

- record that section 68R has been considered in such matters;
- treat the safety of the child and the non-offending parent or carer as paramount in determining whether to exercise section 68R powers; and
- provide brief reasons where section 68R is not exercised.

50. Strengthen identification of the person most in need of protection in police responses

Introduce strengthened legislative guidance, operational policy and training for Tasmania Police to improve identification of the person most in need of protection when issuing PFVOs. Decision making should require officers to assess patterns of coercive control, sexual violence, and power imbalance across the relationship rather than relying primarily on incident-based assessments.

51. Improve recognition of sexual violence within family violence risk assessments



Develop training and operational guidance requiring police and courts to recognise sexual violence, sexual coercion and threats of sexual harm as central indicators of coercive control and elevated risk. Risk assessments should explicitly consider these forms of harm when determining the person most in need of protection.

52. Reduce reliance on mutual or cross PFVOs

Develop clear operational guidance limiting the use of mutual or cross PFVOs to exceptional circumstances where there is clear evidence that both parties have independently used violence. Decision makers should be required to document the rationale for issuing cross orders and demonstrate that power imbalances and patterns of coercive control have been properly assessed.

53. Strengthen safeguards against misidentification of victim-survivors

Introduce oversight, supervision and review mechanisms within policing and court processes to identify and correct misidentification of victim-survivors as the predominant aggressor. This should include:

- improved access to specialist family and sexual violence advice during decision making;
- clear pathways to review PFVOs where misidentification is alleged;
- Independent review of all occurrences of cross issuing of PFVOs;
- The ability for police to revoke a PFVO once issued, if there is clear evidence it was based on the misidentification of the person most in need of protection.

54. Improve recognition of trauma responses in police and court processes

Provide training and practice guidance to ensure that trauma responses including distress, fear, emotional dysregulation and defensive behaviour are not misinterpreted as aggression or culpability when assessing the predominant aggressor.

55. Strengthen culturally safe and inclusive responses to reduce misidentification

Develop targeted training and guidance to reduce the risk of misidentification for victim-survivors from marginalised and stigmatised cohorts, including Palawa/Aboriginal people, LGBTIQ+

people, people with disability, and people experiencing mental ill health or substance use issues. Such training should:

- account for systemic mistrust of police and legal systems;
- include information about prior experiences of discrimination and the ways these factors may shape interactions with police and courts;
- unpack the nuance of these relational dynamics as they differ from 'traditional' understandings of relationships;
- help Police understand stereotypes, and their own conscious and unconscious biases, and how these may contribute to misidentification; and
- be developed in consultation with people who have lived experience of family violence, policing, and intersectional identities.

56. Expand training and guidance on systems abuse across government systems

Develop cross-sector training and operational guidance for police, courts, child protection, health, education and legal practitioners to improve identification of systems abuse in sexual violence and CSA matters. Training should address common tactics such as misuse of subpoenas, litigation abuse, intimidation through legal threats, and attempts to undermine victim-survivor credibility through institutional processes.

57. Strengthen safeguards against the misuse of legal processes in sexual violence and CSA matters

Develop legislative and procedural safeguards to reduce the misuse of subpoenas, records access and other legal mechanisms that may retraumatise victim-survivors or compromise therapeutic relationships. Courts should be required to consider the potential for systems abuse when determining requests for sensitive records in matters involving sexual violence or CSA.

58. Improve protections for individuals raising concerns about sexual violence and CSA

Develop legal and policy protections to ensure that parents, carers, and other concerned adults can raise concerns about possible sexual violence or CSA with schools, health and therapeutic professionals, police, and service providers without fear of retaliatory legal action (including but not limited to defamation).

59. Strengthen system accountability for systems abuse

Establish mechanisms to identify, monitor and respond to systems abuse across justice and service systems, including data collection, complaint pathways and independent oversight.

60. Conduct a whole-of-system audit of systems abuse in Tasmania

Undertake an independent, whole-of-system audit of Tasmanian justice, child protection and service systems to identify how institutional design, policies and practices may enable or perpetuate systems abuse in matters involving sexual violence and CSA.

61. Strengthen oversight of institutional responses to sexual violence and CSA

- Establish mechanisms for ongoing monitoring and reporting on systems abuse across justice and service systems, including regular public reporting on systemic risks and reforms implemented to address institutional harm experienced by victim-survivors.

62. Consider a targeted offence addressing systems abuse in family violence matters, specifically including sexual violence and CSA matters

Undertake consultation and legal analysis to assess the feasibility of introducing a narrowly framed criminal offence addressing systems abuse in the context of family violence, specifically including sexual violence and CSA. Any offence should target deliberate patterns of misuse of legal or administrative processes intended to intimidate, threaten, silence or control victim-survivors or protective parents.

63. Introduce safeguards to prevent criminalisation of victim-survivors

Ensure that any criminal offence relating to systems abuse includes clear and enforceable safeguards to prevent victim-survivors from being inadvertently criminalised, particularly where misidentification of the person most in need of protection remains a systemic risk.

These safeguards must account for:

- the disproportionate impact of misidentification on women, and the compounded risk for marginalised groups including Aboriginal people, people with disability, culturally and linguistically diverse communities, LGBTQIA+ people, and those experiencing socio-economic disadvantage

- evidence that these groups experience heightened surveillance and differential treatment within legal systems, increasing exposure to criminalisation, including the overrepresentation of Aboriginal women as respondents despite also being victim-survivors
- the risk that new criminal offences will entrench existing patterns of overcriminalisation and systems harm, particularly where legal and administrative systems replicate abusive dynamics and re-traumatise victim-survivors
- the need for legislative and practice safeguards, including:
 - a requirement to identify the predominant aggressor, informed by coercive control
 - explicit defences or exemptions for victim-survivors acting under coercion or in response to violence
 - mandatory training for police, legal practitioners and the judiciary on misidentification and intersectional drivers of criminalisation
 - oversight mechanisms to monitor impacts across different population groups

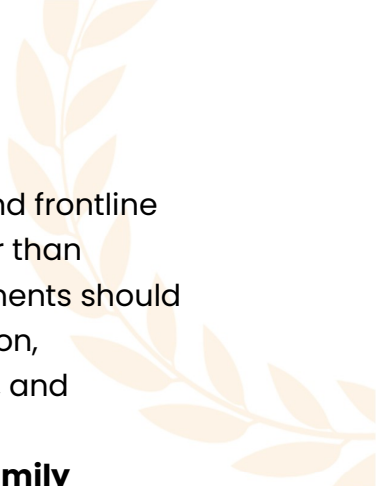
64. Embed prevention of systems abuse in institutional design and practice

Require justice and service systems to review policies, procedures and decision-making frameworks to ensure they prioritise safety and minimise opportunities for perpetrators to weaponise institutional processes against victim-survivors.

65. Establish independent oversight and accountability mechanisms to address systems abuse

Establish independent, trauma-informed oversight mechanisms to monitor, review and respond to systems abuse, including accessible avenues for complaint and review that sit outside the systems in which the abuse occurs. Such mechanisms should be designed to mitigate risks of institutional self-protection, ensure transparency in decision-making, and prioritise victim-survivor safety over reputational or procedural interests.

66. Introduce pattern-based risk assessment approaches in family violence responses



Develop operational guidance requiring police, courts and frontline services to assess patterns of behaviour over time rather than relying solely on incident-based responses. Risk assessments should explicitly include indicators of sexual coercion, intimidation, humiliation and other forms of sexualised control, abuse, and violence.

67. Improve recognition of coercive control across diverse family relationships

Ensure that guidance and training recognise that coercive and controlling behaviour linked to sexual violence can occur across a range of familial and kinship relationships, including between siblings, extended family members and other family or chosen family structures, not solely within intimate partnerships.

68. Strengthen workforce capability to identify coercive control linked to sexual violence and CSA

Develop specialised training for police, courts and frontline responders to improve recognition of how sexual violence can operate within broader patterns of coercive control, including reproductive coercion, in family violence and CSA contexts. Training should support practitioners to identify cumulative harm and patterns of domination that may not be visible through isolated incidents and be developed and delivered in partnership with specialist sexual violence services.

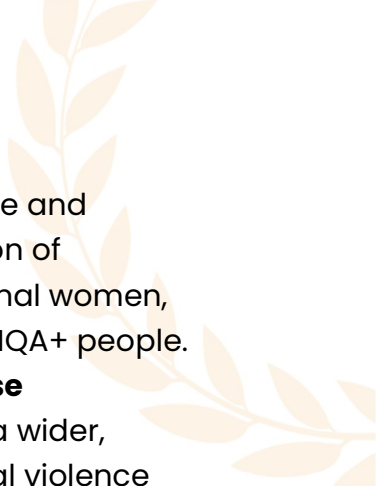
69. Introduce a coercive control offence with appropriate safeguards and system alignment

Subject to careful design, introduce a specific criminal offence addressing patterns of coercive and controlling behaviour, including where sexual violence and reproductive coercion forms part of that pattern. This reform should be implemented alongside the following measures:

70. Embed safeguards to reduce misidentification

Ensure the offence is supported by clear statutory guidance requiring consideration of patterns of behaviour, context, and power imbalances when identifying the person most in need of protection, to reduce the risk of victim-survivors being misidentified as respondents.

71. Mitigate risks of disproportionate criminalisation



Incorporate safeguards, including prosecutorial guidance and oversight mechanisms, to reduce the over-criminalisation of marginalised and stigmatised cohorts, including Aboriginal women, CALD and CARM people, people with disability, and LGBTIQ+ people.

72. Position criminalisation within a broader system response

Ensure that any offence operates as one component of a wider, integrated response, including access to specialist sexual violence services, therapeutic supports, and early intervention pathways, so that criminalisation does not displace non-criminal options.

73. Establish monitoring and review mechanisms

Introduce processes to monitor the operation and impacts of the offence, including impacts on misidentification, access to protection, and outcomes for marginalised groups, with capacity for ongoing refinement.

74. Amend the mental elements of the stalking offence

Amend section 192 of the *Criminal Code* to expand the definition of stalking so that liability may arise where a person knows, or ought reasonably to know, that their conduct is likely to cause physical or mental harm, distress or fear, rather than requiring proof of a specific intent to cause harm.

75. Clarify sexual harassment within the definition of harassing conduct

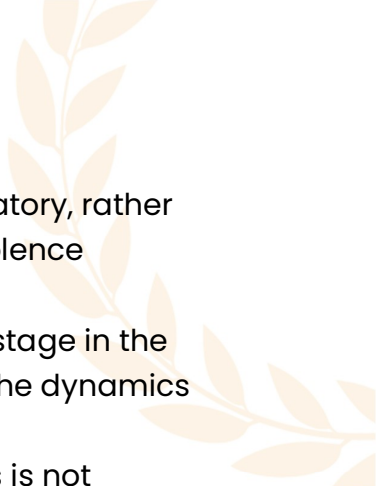
Amend section 4 of the FVA to expand the definition of “harassing” to explicitly include unwelcome conduct of a sexual nature. This should include conduct that is sexually explicit, degrading, humiliating or coercive, and that a reasonable person would expect to cause distress, humiliation, degradation or coercion.

76. Strengthen recognition of harassing behaviour within the FVA

Review and expand the provisions relating to harassment in the FVA to ensure that a broad range of harassing behaviours are captured, particularly in circumstances where conduct may not meet existing thresholds for criminal offences or where no PFVO is in place.

77. Strengthen the operation of judicial directions in family violence matters

Amend section 371A of the *Criminal Code* to strengthen the use and effectiveness of judicial directions in family violence prosecutions. Consideration should be given to:

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- making the provision of judicial directions mandatory, rather than discretionary, in matters involving family violence offences;
 - requiring such directions to be given at an early stage in the trial to assist juries to appropriately understand the dynamics of family and sexual violence; and
 - ensuring that the availability of judicial directions is not limited by the current narrow definition of family violence, so that relevant directions can be provided in cases involving broader patterns of coercive and controlling behaviour.

78. Strengthen the operation of proposed section 371B judicial directions

Amend the proposed section 371B of the *Criminal Code* to ensure that judicial directions relating to recent complaint and family violence offences are mandatory rather than discretionary.

79. Introduce an offence addressing threats to distribute intimate images

Amend the *Police Offences Act 1935* to create a specific offence capturing threats to distribute, publish, transmit or otherwise make available intimate images. The offence should:

- apply regardless of whether the person making the threat actually possesses the image;
- apply regardless of whether the image exists, is “genuine,” has been altered, or has been created by another means (e.g. Deep Fake technology or other Artificial Intelligence technology);
- apply where the threat is explicit, implicit or conditional, including where it is used to compel or control behaviour; and
- apply across all communication methods, including digital platforms, messaging services and threats conveyed through third-party intermediaries.

80. Clarify reasonable expectation of privacy for intimate images

Amend the *Police Offences Act 1935* to clarify that a reasonable expectation of privacy attaches to the content, creation, and context of the image, not merely the setting, including where:

- The image depicts a person who is nude, partially nude, or engaged in sexual activity; and

- the image was created, shared, or obtained in circumstances where the person reasonably expected it would remain private, regardless of:
 - i. the physical location in which the image was taken;
 - ii. whether the image was self-generated; or
 - iii. whether it was initially shared consensually with another person.

81. Strengthen the definition of consent for the distribution of intimate images

Amend section 13B of the *Police Offences Act 1935* to clarify that consent must be:

- freely and voluntarily given, without pressure, manipulation, fear, or expectation of negative consequences;
- explicit and informed, requiring an active agreement rather than assumption, absence of objection, silence, or acquiescence;
- contemporaneous, meaning it must exist at the time of the specific act of publication or distribution;
- specific, including to the particular image, purpose, audience, platform, and form of distribution; and
- able to be time-bound, meaning that it can be provided for a specific period of time, and expires thereafter.

The legislation should also explicitly recognise consent as a continuum, including that:

- consent may be limited, conditional, or time-bound;
- consent given in one context or at one point in time does not automatically extend to future or different contexts;
- consent may be withdrawn at any stage, including after an image has been created or previously shared; and
- compliance, silence, freezing, or failure to object must not be interpreted as consent.

The provision should further clarify that:

- consent to the creation of an intimate image does not imply consent to its publication, sharing, or distribution;
- consent is invalid where it is influenced by coercion, threats, pressure, abuse of power, dependency, fear, or exploitation of

- vulnerability, including emotional, financial, social, or reputational leverage;
- consent cannot be inferred from the existence of an intimate, sexual, or prior relationship; and
- consent is negated where a person does not feel safe or free to refuse.

82. Implement community education and professional training on consent and image-based abuse

Develop and fund community education initiatives in partnership with specialist organisations to strengthen public understanding of consent in the context of intimate images and technology-facilitated abuse. These initiatives should:

- promote a clear and consistent understanding of consent as active, ongoing, freely given and reversible;
- explicitly address myths and misconceptions, including that consent can be assumed, transferred, or inferred from silence, prior intimacy or past sharing of images;
- explain how fear, coercion, power imbalances, trauma responses and social pressures can undermine genuine consent;
- be accessible, inclusive and appropriately tailored for diverse communities, including young people, people with disability, culturally and linguistically diverse communities, and those engaging in digital and online spaces; and
- be delivered alongside mandatory training for police, prosecutors and the judiciary to support trauma-informed, consistent and victim-survivor-centred application of the law.

83. Clarify and expand image-based abuse offences to capture AI-generated content

Amend the *Police Offences Act 1935 (Tas)* to expressly criminalise the creation, possession, distribution, and threatened use of intimate images generated or altered using digital technologies, including AI-generated (“deepfake”) images that depict a person’s likeness without consent. The provision should make clear that an image need not be real or originally captured to constitute an offence, and should recognise the use of such material as a form of coercive control within the FVA framework.

84. Address non-consensual distribution of images created with consent

Amend the *Police Offences Act 1935* to explicitly cover circumstances where an intimate image was created or initially shared with consent but is later distributed, published, or threatened to be distributed without consent.

85. Amend the *Police Offences Act 1935* to address artificially generated intimate imagery

Amend the *Police Offences Act 1935* to ensure that offences relating to intimate images clearly apply to material that is altered, manipulated or wholly artificially generated, including deepfake sexual material.

86. Ensure offences apply regardless of whether imagery is an audio/visual recording of a real event

Clarify within the *Police Offences Act 1935* that offences relating to intimate imagery apply regardless of whether the material is an “audio/visual recording” of a real event or generated using artificial intelligence or other digital technologies.

87. Distinguish between altered and wholly created intimate sexual material

Ensure the legislation distinguishes between altered sexual material and wholly created synthetic sexual material to avoid gaps, ambiguity or prosecutorial uncertainty in relation to emerging forms of image-based and deepfake abuse.

88. Consider extending possession offences to artificially generated intimate imagery

Review whether possession of artificially generated sexual material should constitute an offence in a manner comparable to existing provisions relating to prohibited visual recordings under section 13C of the *Police Offences Act 1935*.

89. Align Tasmanian legislation with Commonwealth and interstate reforms on deepfake abuse

Ensure Tasmanian offences relating to image-based abuse align, where appropriate, with recent Commonwealth reforms and developments in other Australian jurisdictions to support comprehensive, consistent and future-proof legislative responses to emerging forms of image-based abuse.

90. Accompany new offences relating to artificial imagery with prevention and diversion measures

Ensure that any expansion of criminal offences relating to artificially generated or altered intimate imagery is accompanied by prevention and early intervention strategies. These measures should include:

- comprehensive consent and digital literacy education addressing image-based abuse and the misuse of generative technologies;
- public awareness initiatives about the harms of deepfake and technology-facilitated abuse; and
- the availability of restorative or diversionary responses where appropriate, particularly for young people who have engaged in HSB, while maintaining accountability for serious harm.

91. Introduce a targeted offence for the non-consensual generation of intimate imagery

Amend the *Police Offences Act 1935* to create an offence for the non-consensual generation of intimate imagery where the material depicts, or is reasonably understood to depict, an identifiable person without their consent, including imagery produced using artificial intelligence or other digital technologies, with appropriate safeguards to avoid criminalising consensual, non-exploitative or developmentally normative behaviour.

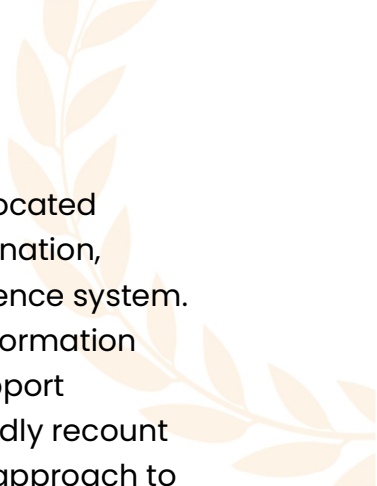
92. Criminalise threats to distribute artificially generated or altered intimate imagery

Amend the *Police Offences Act 1935* to create an offence for threatening to distribute, publish, transmit or otherwise make available artificially generated or altered intimate imagery without the consent of the person depicted. The offence should apply regardless of whether the imagery actually exists or whether the person making the threat possesses the material.

93. Establish formal information sharing frameworks between government and non-government services

Develop formalised information sharing frameworks to facilitate timely and structured victim-centred information exchange between government agencies and non-government organisations involved in the family and sexual violence response system.

94. Strengthen multidisciplinary coordination and integration



Draw on lessons from existing multidisciplinary and co-located models, such as Arch centres, to inform improved coordination, relationships, and shared practice across the family violence system. Approaches should support effective, consent-based information sharing between police, legal services and specialist support services, reduce the need for victim-survivors to repeatedly recount traumatic experiences, and promote a “no wrong door” approach to assistance.

95. Expand the scope of the Eligible Persons Register to improve victim-survivor safety

Review and amend the operation of the Eligible Persons Register to ensure victim-survivors receive sufficient, timely and actionable information to support effective safety planning. Reform should consider expanding notification mechanisms beyond custodial sentences to include:

- Expanding notification mechanisms to include relevant community-based orders and supervision arrangements beyond custodial settings;
- Expanding provision of information to include compassionate and emergency medical leave;
- Ensuring that victim-survivors are informed of actual release dates and relevant conditions impacting safety such as conditions of release like geographical exclusion restrictions;
- Embedding stronger administrative safeguards and accountability mechanisms to prevent notification failures; and
- Providing clear referral pathways to specialist support services when notifications are issued, recognising that information alone does not equate to safety.

96. Strengthen the quality and timeliness of information provided through the Register

Ensure that information provided through the Eligible Persons Register includes details that meaningfully support safety planning, including actual release dates and times, relevant release conditions, and any geographic exclusion conditions that may affect victim-survivor safety.

97. Embed referral pathways to specialist support services when notifications are issued

Ensure that notifications provided to victim-survivors are accompanied by clear referral pathways to specialist support services to assist with safety planning and risk management following changes in an offender's status.

98. Embed a proportionality principle in victim notification frameworks

Amend relevant legislative and policy frameworks to ensure that disclosure decisions are guided by a clear proportionality principle, whereby information shared with victim-survivors is limited to that which is reasonably necessary to support safety planning and risk management, while ensuring that privacy considerations do not prevent the disclosure of information required to prevent foreseeable harm.

99. Extend special witness protections to children experiencing family violence

Amend the *Evidence (Children and Special Witnesses) Act 2001* (Tas) to extend special witness protections to children who are required to give evidence about all forms of family violence by a parent or carer.

100. Extend special witness protections to other serious forms of family violence affecting children

Review the scope of the *Evidence (Children and Special Witnesses) Act 2001* (Tas) to consider extending special witness protections to children giving evidence about other serious forms of family violence, including emotional or psychological abuse, where participation in court proceedings may present comparable risks of distress, fear or re-traumatisation.

101. Strengthen access to specialist therapeutic support for children experiencing family violence

Ensure that children who have experienced family violence have timely access to specialist, trauma-informed counselling that is developmentally appropriate and responsive to sexual violence.

102. Establish vulnerable witness suites to support remote evidence

Establish vulnerable witness suites with appropriate staffing and technology in non-court locations to enable victim-survivors to give evidence remotely.

103. Expand access to remote evidence arrangements in family violence matters

Ensure that arrangements allowing witnesses to give evidence remotely are available in family violence proceedings more broadly,

not only in sexual violence and CSA matters, so that victim-survivors can participate in the justice process without unnecessary exposure to intimidating or retraumatising court environments.

104. Expand protections for good-faith disclosures of family violence under section 39

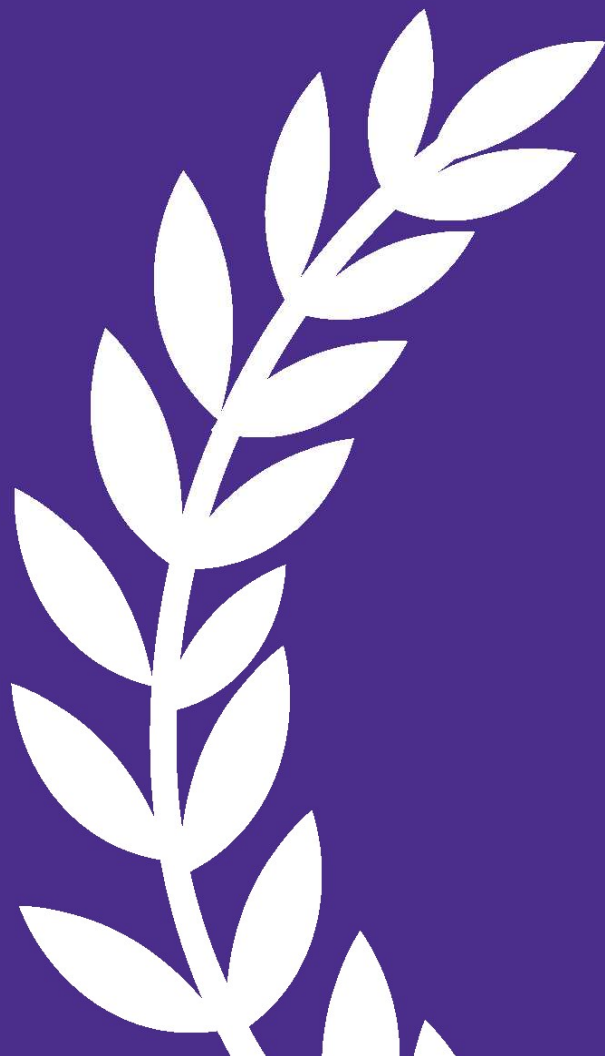
Amend section 39 of the FVA to extend protections from liability for individuals who disclose information relating to broader indicators of family violence, including patterns of coercive control, grooming behaviours, and escalating conduct that may indicate a risk of sexual violence or CSA.

105. Support early identification and disclosure of risk indicators for sexual violence and CSA

Ensure that protections for voluntary or mandatory disclosures under section 39 apply where a person reasonably believes or suspects that concerning behaviours or patterns of conduct may indicate a risk of sexual violence or CSA, even where physical or sexual violence has not yet occurred.

106. Legislate independent oversight of family and sexual violence matters involving police personnel

Legislate minimum requirements for independent oversight of family and sexual violence matters involving police personnel, including multiple and mandatory external specialist and victim-survivor representation, transparent governance and decision-making processes, accessible complaint pathways, and regular public reporting.



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