



MINISTRY OF  
**JUSTICE**  
*Tāhū o te Ture*

# **Strengthening New Zealand's legislative response to family violence**

## **Summary of submissions**

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# Executive summary

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## Overview of submissions

In August 2015 Hon Amy Adams, Minister of Justice, released a discussion document on *Strengthening New Zealand's Response to Family Violence*. The document discussed aspects of current family violence law and gave ideas for change. The document asked for submissions on what individuals and organisations thought about these ideas and other parts of family violence law.

The consultation period was from 5 August to 25 September 2015. We received 494 submissions from individuals, groups of individuals and organisations, setting out their views about how the law could change to deal more effectively with family violence. The Government is considering these submissions as it makes new policies about addressing family violence.

The discussion document is divided into 5 parts: understanding family violence, victim safety, prosecuting family violence perpetrators, an additional pathway to safety and better services for victims, perpetrators and whānau. This summary presents the key themes identified in submissions.

### UNDERSTANDING FAMILY VIOLENCE

Understanding family violence was the first theme we focused on. We asked if the:

- law adequately responds to the needs of different population groups
- legal definition of 'domestic violence' is up to date
- law should be guided by a set of principles.

### BARRIERS FACED BY DIFFERENT POPULATION GROUPS

Almost two-thirds of submissions wanted responses targeted to different population groups. Many people mentioned the barriers to safety faced by women, children, men, and Māori, but some also raised the challenges faced by Pasifika, LGBTI (lesbian, gay, bisexual, transgender and intersex) people, older people, people with disabilities, migrants and people living in rural communities. Generally people agreed that:

- services should be flexible and tailored to reflect the experiences of particular groups, such as Māori, Pasifika, older people and people with disabilities
- each population group should know about family violence and where to go for help
- anyone who responds to family violence, including Police, judges, and lawyers, needs training on the risk factors and needs of vulnerable populations
- more resources are needed to meet the particular needs of different populations.

## DEFINING FAMILY VIOLENCE

Most people supported a change to the legal definition of family violence to ensure it covers all relevant behaviours and situations. They were split on whether the term 'domestic violence' or 'family violence' should be used. They want the term 'coercive control' to be further explained in the definition of family violence and highlighted in awareness-raising and educational programmes. Submissions that mentioned pet abuse mostly supported it being included in the legal definition of domestic violence, although some said it was already covered under psychological abuse.

## PRINCIPLES IN LAW

Around a third of all submissions commented on the principles to guide decision-making under the law. Most supported the idea that guiding principles should emphasise the right to safety of all New Zealanders and to send a clear message that family violence will not be tolerated.

### Victim safety

Our second key theme focused on how we can improve the law to keep victims safe. We looked at the adequacy and effectiveness of property orders, protection orders, Police safety orders and parenting orders.

## PROTECTION ORDERS

About half of all submissions commented on protection orders, including people with personal experience of them. A common view was that freedom from violence is a basic human right, and cost shouldn't stop people getting a protection order. People supported third parties being able to apply for a protection order on a victim's behalf; people were split on whether a victim should give their permission first. People also want simplified application forms and streamlined processes. Many submissions mentioned that in order for protection orders to be effective, there should be a swift and certain response to breaches. Submitters broadly supported the idea of mandatory arrests for all breaches where there is sufficient evidence.

## PROPERTY ORDERS

Most of the 140 submissions on property orders supported judges considering accommodation needs when making a protection order and property order. Another common view was that the safety and financial security of the victim and children should be the priority consideration in decisions about accommodation. A few submissions highlighted the effect property orders may have on children, and raised the need for alternative accommodation for perpetrators.

## POLICE SAFETY ORDERS

Most submissions on Police safety orders supported the idea of Police being required to refer a perpetrator to services, such as short-term accommodation, when they issue a Police safety order. People saw merit in Police or a third party either supporting a victim to apply for a protection order or applying on the victim's behalf. They were in favour of extending the length of a Police safety order so victims have more time to arrange for their ongoing safety.

## PARENTING ARRANGEMENTS

Most submissions on parenting orders supported the need to make child safety a primary consideration in decisions about parenting arrangements under the Care of Children Act 2004. Many people supported courts having broader discretion to consider risks to the child and adult victim

when making parenting arrangements. People want parenting orders and protection orders to be consistent.

### **Prosecuting family violence perpetrators**

Our third theme looked at whether the criminal law is doing enough to deal with family violence and hold perpetrators to account. We asked:

- whether existing criminal offences are adequate in the context of family violence
- if sentencing is proportionate to harm done
- how consideration of victim safety should affect bail and sentencing decisions
- if other changes to court structures and processes are needed.

### **A FRAMEWORK FOR FAMILY VIOLENCE OFFENCES**

Most submissions on this topic supported the idea of a stand-alone offence or class of family violence offences. Others argued a new offence is unnecessary or a family violence ‘tag’ could be used to identify crimes committed in a family violence context. Some people wanted new offences for psychological violence, coercive control and repeat family violence.

### **VICTIM SAFETY AT BAIL AND SENTENCING DECISIONS**

Most submissions on this topic want judges to make the safety of the victim their main priority when considering bail applications related to family violence offending. A clear majority of these submissions supported the idea that repeated and serious offending should be an aggravating factor at sentencing.

### **CRIMINAL COURT JUDGES’ POWERS**

Most of the 125 submissions on this topic supported judges in criminal proceedings being able to vary protection orders based on the information they hear during trial, or referring the varying of a protection order or parenting order to the Family Court. People who favoured referral to the Family Court said it was best-placed to deal with protection orders because it has information, experience and a civil law framework to guide its decision-making.

### **CHANGES TO COURT PROCESSES AND STRUCTURES**

Many submissions on this topic wanted cases heard as soon as possible to avoid prolonged stress for victims and their families. Many submissions argued for more focus to be on the victim so they feel comfortable and safe throughout the process. People also supported a dedicated Family Violence Court, and integrated criminal and civil courts or using an inquisitorial rather than an adversarial approach to family violence cases. People also want educational programmes to help judges and court employees interact with victims and their families in courtroom settings.

### **Additional pathway to safety**

Our fourth theme centred on the question of an additional pathway for victims, perpetrators and whānau who want help outside the justice system to stop the violence. Submissions made a clear call for more services and more tailored approaches. Suggestions included, for example, services should be culturally appropriate and available to particularly vulnerable groups. Many people acknowledged additional resources are needed to develop expertise and capacity and to improve access to effective services.

Restorative justice and mediation processes were also discussed and received a mixed response; most people cautioned against their use.

#### IEWS ON POLICE RESPONSES

Most submissions on this topic supported the idea the law should specify the options available to Police responding to a family violence incident. Most people said options should include Police making a referral to a funded service or services or an assessment.

#### **Better services for victims, perpetrators and whānau**

In our final theme, we asked if minimum workforce standards and more information sharing could lead to better services for victims, perpetrators and whānau. This means more information sharing between:

- agencies (including NGOs, service providers and government agencies)
- agencies (such as Police and other justice sector agencies) and the courts
- the criminal and civil courts.

#### INFORMATION SHARING BETWEEN AGENCIES

About half of all submissions commented on information sharing between agencies. Many supported the idea that safety trumps privacy concerns in cases of family violence. Submissions favoured a presumption of disclosure, particularly when a child's safety is involved. People also suggested that varying interpretations of the Privacy Act 1993 were creating more problems than the Act itself. They said a better understanding of the Privacy Act may go some way to solving this problem.

#### INFORMATION SHARING BETWEEN AGENCIES AND COURTS

Of the 45% of submissions that commented on this topic, a clear majority want Police and other justice sector agencies to give more information to judges. People said judges need information so they can keep people safe but they also acknowledged some information may not be admissible in court for well-established legal reasons.

#### INFORMATION SHARING BETWEEN COURTS

About a third of the 165 submissions on this topic commented on information sharing between courts. There was wide support for more information sharing, with some people submitting judges need to have as much information about a perpetrator's violent behaviour as possible when making decisions about a victim and children's safety.

This included judges in the Family Court considering applications under the Domestic Violence Act and the Care of Children Act 2004 being able to see the records of family violence offences from the criminal courts. People also want judges in the criminal court who are considering sentences and bail applications in cases of family violence to be able to access relevant proceedings of the Family Court.

#### POSITIVE DUTY ON PARTIES TO INFORM THE CRIMINAL COURT OF ANY RELATED FAMILY COURT PROCEEDINGS OR ORDERS

Most people supported changing the law to direct parties to inform the criminal court of any related Family Court proceedings or orders. They raised the possibility of extending this duty to counsel as well.

## ACHIEVING A SAFE AND COMPETENT WORKFORCE

Most submissions on this topic supported minimum standards and suggested they could help bring about consistent, safe and effective responses to family violence across the justice sector. Some people warned against them becoming an administrative 'tick box'; others said more funding and workforce support is needed to help people meet the standards.

## Next steps

The Government is considering these submissions as it makes new policies about addressing family violence, and expects to introduce legislation to Parliament in 2016.

# Background

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## Consultation process

This consultation forms part of the Ministry of Justice's review of family violence law. The aim is to ensure the law consistently reflects modern understandings of family violence and underpins cross-government work to reduce family violence.

The Minister of Justice, Hon Amy Adams, launched a discussion document on 5 August 2015 and invited all New Zealanders to make a submission. An invitation to make submissions was also emailed to stakeholder organisations.

Rather than containing formal proposals, the document discussed aspects of current family violence law and gave ideas for change. Submissions were sought on what individuals, groups and organisations thought about these ideas and other parts of family violence law.

The document was available online or in paper form on request. Submissions could be made online either by completing an online form or uploading a document, by email, or by post. The online form remained open until 26 September 2015.

Correspondence received by the Minister or the Ministry during the consultation period that commented on New Zealand's family violence legislation was included as a submission.

## Process of submissions analysis

Some submissions responded directly to the questions raised in the discussion document – others chose to use their own format. Information contained in the submissions was extracted and as far as possible sorted by topic area corresponding to the questions and areas covered in the document. A set of coding categories (tags) was developed to identify key themes arising from each topic. A team of analysts used coded data to provide a summary of the range and strength of views.

As well as using coded data, all responses to particular topics were read to identify further themes, ideas, examples of best practice, and models for consideration by the relevant policy team.

## Profile of submissions

The online submission form asked whether a submission was from an individual, a group of individuals or an organisation, as well as about their interest in family violence legislation. All submissions contained information indicating whether it was from an individual, group or organisation.

Of the 494 submissions, two thirds (333 submissions) were from individuals or small groups of individuals and one third (161) were from organisations or groups. Some of these were umbrella organisations or networks representing the views of several organisations. Some organisations represented by networks made their own submission as well. From the content of submissions it was apparent that some individual and organisation submissions were made as part of a co-ordinated response. For example, 19 very similarly worded submissions were received from people who stated in their submissions they were supporters of the organisation Shine.

Around 95% of submissions provided some information about their interest in family violence legislation. The submissions from organisations have been classified by the main focus of the organisation or group. Further detail can be found in Appendix 2.

Some individuals provided details of their personal experience of family violence, and/or of any professional perspectives they had on family violence as part of their paid or voluntary work.

Type of submitter	Number of submissions
Individuals or groups of individual	333
Organisations or group submissions	161
<b>All submissions</b>	<b>494</b>

## Types of organisations/group by activity or focus

### Service provision/overview

Family violence agency/network	43
Family violence research/overview	3
Health, mental health, counselling	15
Social services	13
Legal/advisory	7
Government/Local body	5
Judiciary	1

### Population-based

Women (including women with children)	15
Men	6
Māori	11
Children	9
Ethnic/migrant groups	5
Pasifika	3
Disability	4
Older people	2
Youth	1

### Other organisations

Human rights/justice/social change	6
Political party/politicians	4
Church/religious/spiritual	4
Veterinary/Animal welfare	3
Trade union	2

# Part 1: Understanding family violence

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Part 1 sought views on improving people's understanding of family violence.

## Views on barriers faced by different population groups

### Background

We sought views (section 1.6, page 13) on addressing the barriers faced by different population groups. People were asked to respond to the following questions:

*What changes could be made to address the barriers faced by each population group?*

*Does the current legal framework for family violence address the needs of vulnerable population groups, in particular disabled and elderly people? How could it be improved to better meet the needs of these groups?*

*What changes could be made to better support victims who are migrants, particularly when immigration status is a factor?*

### Summary

Nearly 60% of all submissions responded to the question about the barriers facing different population groups. Groups most commonly identified as facing specific barriers were women, children, men, Māori, older people, people with disabilities, migrants and, less frequently, Pasifika, LGBTI people and those in rural communities.

A common theme was to make changes that will help all of the groups, including:

- provide services that are flexible and tailored to meet the needs of these groups
- provide accessible information so they know what family violence is and where they can get help
- provide training for participants in the family violence response system including Police, judiciary and lawyers on the risk factors and needs of vulnerable populations
- provide the resources to support these groups.

Also, about 20 submissions emphasised the need for an approach that recognises many vulnerable populations have multiple characteristics that increase their risk of family violence and which create barriers to people seeking and receiving help.

## What submissions said

### WOMEN AND CHILDREN

Of submissions that discussed the issues and barriers faced by women and children, there was support for greater recognition in law and policy of the gendered nature of family violence. Submissions discussed that women are the primary victims of family violence, in particular of intimate partner violence, and coercive and controlling behaviours, with men being the predominant aggressor. Submissions often referred to victims as women and perpetrators as men without directly discussing the gendered nature of family violence.

To reduce barriers faced by women and children, submissions suggested:

- ensuring women have access to legal services and support that recognise the gendered nature of violence
- better educating judges on the nature and dynamics of family violence, and how to recognise psychological abuse or coercive control
- amending employment law to create a statutory entitlement to paid employment leave for a victim or caregiver in a family violence situation
- providing long-term support for women and children in line with programmes for stopping violence
- using gendered language in legislation and policy.

A number of submissions recommended considering the barriers faced by women and children separately. Submissions with a focus on children (including the Children's Commissioner and Barnados) acknowledged there is often an overlap in violence committed against women and children, but not always. They also said the risk factors for women and children are often different, they experience family violence differently, and different responses are required to stop the violence. Therefore, focusing on adult victims doesn't clearly reflect the fact that children are also victims when exposed to family violence, and can cause children to miss out on help and support.

Submissions that discussed the needs of children recognised children can directly experience violence or can also be a victim of family violence if they see or hear violence against someone else, often their mother.

Submissions supported greater efforts in family violence prevention by ensuring young people are educated, both inside and outside the school system, about healthy relationships and recognising family violence.

### MEN

Around 40 submissions addressed male victims' experience of family violence. These submissions suggested that allegations of intimate partner violence against men weren't always taken seriously. It was suggested male victims may not come forward because they do not think they will be believed or they are ashamed to admit the abuse.

Submissions also supported greater access for male victims to support services. Around 10 submissions suggested government should invest more in programmes for male victims.

## MĀORI

Of around 50 submissions, including from iwi, addressing issues and barriers experienced by Māori, a large number supported taking a holistic approach to addressing family violence in whānau Māori. Examples included a focus on prevention and addressing family violence using a whole-of-whānau approach rather than dividing families into victims, perpetrators, and children and treating them in isolation. This included recognising the impact of the violence on the whānau, for example, that family violence affects the whole family, not simply the victim, and that family violence is often intergenerational.

Recognising the role of whānau in responding to the violence was also seen as important. For example, empowering whānau and iwi to take ownership of family violence in their communities and to be accountable for positive change. Submissions also raised the idea of looking at the causes of violence within a wider context, for example, the impacts of colonisation, education and poverty.

Submissions highlighted the need for services to be culturally appropriate including those that incorporate tikanga or a Te Ao Māori world-view. These submissions supported greater cultural competency training of frontline staff. Many submissions want greater consultation with Māori so that services can be designed to suit their specific needs.

## PASIFIKA

Of around 15 submissions addressing issues and barriers experienced by Pasifika, several advocated for a separate Pacific strategy to deal with family violence. The submissions suggested Pasifika have unique needs that require a tailored response sensitive to cultural practices and perspectives. The need for cultural competency of frontline staff was emphasised.

Submissions favour consultation with community leaders. They also suggested there should be support for Pacific communities to take primary responsibility for leading programmes of action to prevent family violence.

## LESBIAN GAY BISEXUAL TRANSEXUAL AND INTERSEX PEOPLE (LGBTI)

About 20 submissions directly addressed LGBTI. These noted a lack of services tailored to LGBTI people. They need better information about the services they can go to if they are affected by family violence, and it was recommended there be a comprehensive plan for tackling LGBTI relationship violence.

The submissions also recognised specific effects such as increased risks for transsexual women.

## VULNERABLE POPULATIONS, IN PARTICULAR OLDER PEOPLE AND PEOPLE WITH DISABILITIES

Around 120 submissions discussed the needs of vulnerable people, with a focus on older people and people with disabilities. Generally, there was support for investment in services that specifically cater for vulnerable people, as mainstream services are often inaccessible for various reasons.

Submissions suggested there is little awareness of the issues older people and people with disabilities face or the nature of the abuse they are subjected to. This lack of understanding means abuse can go unnoticed or is brushed aside as insignificant. For example, it was noted older people can be at risk from adult children or other family members. Submissions stressed the need for more public awareness and education, promoting better attitudes to older people and people with disabilities, and better training for judges, Police and other frontline staff in the justice sector.

The submissions highlighted many barriers which stop vulnerable people reporting abuse. These include fear, not knowing who to contact, being unable to communicate what has occurred, not wanting to leave their home (especially if it has been modified to suit their requirements), and not wanting to lose contact with an abusive family member. In order to reduce some of these barriers, submissions suggested vulnerable people should have greater access to lay advocates or legal services.

Submissions suggested vulnerable people need more legislative protections. However, submissions were divided about whether the protections should be in a separate 'Vulnerable Persons Act,' as in the United Kingdom version, or within the Domestic Violence Act. Suggestions for better providing for vulnerable people within the existing Act included extending the definition of 'close personal relationship' to include paid carers and making explicit reference to older people and people with disabilities in the definition of family violence.

Around 10 submissions said we already have the tools under the current legal framework to protect vulnerable people and the issue is how these tools are implemented. Some people said there is an unwillingness to prosecute abusers as victims with disabilities are considered unreliable witnesses.

A few people said if people use their position as an enduring power of attorney to abuse older people, they should be removed from this position.

For people with disabilities, submissions noted the need for professionals who work with disabled perpetrators to have specialist knowledge, such as for those with IDSPB (Intellectual Disabilities and Problematic Sexual Behaviour). Some suggested restorative justice is a useful mechanism for people with disabilities at risk of harming others. Many said better access to appropriate housing and transport could help people with disabilities leave abusive relationships.

Other suggestions to support both groups included:

- social workers regularly checking on older people and people with disabilities in home and residential care
- establishing an entity to investigate reports of abuse in facilities
- making it compulsory for residential staff who identify abuse to report it, and
- ensuring access to video testimony in court for those who find it difficult to attend.

## MIGRANT COMMUNITIES

Submissions that discussed migrant communities emphasised the vulnerability of victims who are migrants. Around 70 submissions said a victim's immigration status can be a significant barrier to them reporting abuse or leaving a violent relationship.

Submissions noted that abusive partners can use coercive measures, such as postponing or refusing to sponsor a residence application, as a way to keep control of their partner. They suggested perpetrators can act this way because the protections that apply to victims if their partner is a New Zealand citizen or resident visa holder do not apply if the abuser is on, for example, a temporary work permit.

Around half of the submissions on this topic emphasised the need for services to be culturally responsive and for service providers to understand how to recognise violence within migrant communities. Submissions noted:

- due to language barriers, migrants may be unaware of New Zealand's family violence legislation, the protections available to them, and what constitutes acceptable behaviour
- a need to ensure migrants do not perform unsafe or harmful cultural practices
- the stress involved in acclimatising to a new cultural environment increases the risk factors of family violence
- the stigma and repercussions from migrants' own ethnic groups prevent them reporting violence
- cost barriers to accessing services such as interpreters and other expert support.

Suggestions to better support migrant victims of family violence included:

- extending the special category visa for all victims of family violence to all migrant victims, and extending emergency benefits and financial support to all migrant victims regardless of their (or their partner's) immigration status
- providing migrants with greater access to legal services so they can be properly informed of their rights in New Zealand, for example through legal aid, legal clinics or requiring lawyers to undertake more pro-bono work
- establishing hotline services where migrants can speak about violence without fear of deportation
- providing educational materials for migrant communities.

# Views on the legal definition of family violence

## Background

We sought views (section 1.24, page 16) on the legal definition of family violence. People were asked to respond to the following question:

*What changes to the current definition of 'domestic violence' would ensure it supports understanding of family violence and improves responses? For example:*

- *more clearly explain the concept of 'coercive control'*
- *use the term 'family violence' instead of 'domestic violence'*
- *include the abuse of a family pet, where the abuse or threat of abuse is intended to intimidate or harass a family member.*

## Summary

Around 55% of submissions (about 275) responded to the question on the definition of family violence. They suggested many ways to change the definition. Of those who responded to the question:

- most supported expanding and/or clarifying the current legal definition of domestic violence
- most supported more clearly explaining the concept of coercive control. Many of these submissions also supported improving education and training to recognise and respond to coercive control
- submissions were split on whether the term 'domestic violence' should be replaced with 'family violence'.

Around 100 submissions that discussed legal definitions supported including pet abuse, in the context of family violence, in the definition. However, about 5 submissions argued this change was unnecessary as it was already covered.

For those who didn't support changing the legal definition, common reasons were the current definition was adequate or on its own a change to the definition wouldn't address family violence.

## What submissions said

### COERCIVE CONTROL

Around 170 submissions wanted a better explanation of the idea of 'coercive control' within the legal definition of domestic violence. About 10 submissions rejected the idea. Submissions noted patterns of abuse resulting in coercive control often include a number of acts that can appear minor in isolation and are not recognised as family violence by Police.

Around 50 submissions also supported greater education around the idea of 'coercive control' in addition to, or in place of, changes to the legal definition. Around 10 submissions noted recent legislative changes in the United Kingdom to include 'coercive and controlling behaviour' in the definition of domestic violence and suggested a similar legislative change in New Zealand. However, Wellington Rape Crisis noted the term 'coercive control' would need to be defined carefully.

## USING THE TERM 'FAMILY VIOLENCE' INSTEAD OF 'DOMESTIC VIOLENCE'

Around 100 submissions discussed changing the term 'domestic violence' to 'family violence'. About 65 want to change to 'family violence'; about 35 do not.

People gave many reasons to use the term 'family violence'. Most common was that it widens the scope of who may perpetrate or experience violence. For example, it would expand the perception of violence from focusing solely on intimate partner violence to better encompass the whole family and the effects of violence on children.

Other reasons were that the term 'domestic violence' doesn't adequately recognise the impact of violence on whānau and their role in responding to it.

Of the submissions which provided arguments against the term 'family violence', the most common reasons were it risked excluding some forms of violence. For example, it may limit recognition of all forms of violence that occur within a domestic context but which are not perpetrated by family. It was also argued that 'family violence' isn't in line with terminology used internationally; and that the term doesn't reflect the gendered nature of violence in the same way that 'domestic violence' does.

Other submissions noted that neither term adequately reflects the gendered nature of the violence. There was some support for reframing the issue as 'Violence against Women and Girls' to acknowledge the role of gender. Submitters thought this would be consistent with New Zealand's international commitments.

About 10 submissions objected to the term 'family violence' because the term 'family' by definition excludes certain close relationships, such as dating relationships.

Around 10 submissions didn't express a preference for specific terminology but said it was important for agencies responding to family violence to use a consistent definition. A few submissions said addressing the problem itself was more important than changing the definition.

## ABUSE OF PETS

Submissions on this issue largely supported including abuse of a family pet within the definition of domestic violence. Pet abuse was recognised as a tactic of coercive and controlling behaviour. The Canterbury Family Violence Collaboration noted such abuse is used 'to frighten those who experience violence while they are in a relationship or as punishment once a person leaves a relationship'. The New Zealand Veterinary Association said studies have shown a strong correlation between animal abuse and family violence. The effects that abuse of, or threats to abuse, a pet had on children were also noted.

Other issues in relation to pets included the difficulty the victim can face in finding emergency accommodation that will allow them to bring their pet. Submissions interested in animal welfare thought amending the Domestic Violence Act 1995 to explicitly allow the inclusion of all animals (including farm animals) in protection orders would remove a significant barrier deterring women from leaving an abusive relationship, fearing animals will be hurt or killed.

About 5 submissions said abuse of pets was already covered by psychological abuse in the current definition.

## Additional ideas

### EXTENDING DEFINITION TO INCLUDE CARERS WHO ARE NOT FAMILY MEMBERS

Around 25 submissions suggested the definition of a domestic relationship be extended to cover people who have a 'duty of care' or are involved in a relationship of trust but are not family members. Several said this could include paid support workers or caregivers.

The submissions gave a number of reasons for including these people. In particular, these relationships were typically set in a domestic setting, usually the client's home. The relationship is ongoing, and there is often a high level of trust or dependence on the carer. There was a strong emphasis on extending the definition in this manner to provide greater protection for people with disabilities, especially those with intellectual disabilities, and older people. Around 10 submissions also supported retaining the term 'domestic violence' because, they said, it better reflects a carer's role.

### EXTENDING THE DEFINITION TO RECOGNISE THE ROLE/INFLUENCE OF WIDER FAMILY, ESPECIALLY IN THE CONTEXT OF COERCIVE CONTROL

Around 5 submissions proposed the definition of a domestic relationship be extended to more clearly cover violence perpetrated by extended family and whānau. One submission added that extended family members who support perpetrators' abuse should be held responsible.

This issue was most frequently raised in the context of Māori and Pasifika and ethnic minorities, recognising the important role extended family and whānau play for these groups. Around 5 submissions suggested extending the definition of domestic violence to explicitly include culturally oppressive practices and honour crimes, where violence is committed-against a victim by a perpetrator who believes the victim has harmed the reputation of wider family or community.

### OTHER SUGGESTIONS

Some of the other suggestions included:

- distinguishing financial abuse from psychological abuse as financial and economic abuse is a form of abuse in its own right. Age Concern New Zealand noted financial abuse 'is usually more than the description of financial abuse given in the Domestic Violence Act, as it often involves exploitation, theft and coercion to hand over money or assets, rather than just control of assets and finances'
- specifying in law the behaviours that can constitute psychological abuse.

About 5 submissions suggested false allegations of family violence should be included within the definition of family violence.

# Views on including principles in law

## Background

We sought views (section 1.30, page 17) on including principles in law. People were asked to respond to the following questions:

*How would guiding principles affect how the Domestic Violence Act and other legislation is implemented? What principles would you suggest?*

*How could including principles in the law reflect the nature and dynamics of family violence? For example:*

- *include principles emphasising developments in the understanding of family violence*
- *include principles that guide how agencies are expected to respond to family violence, including particular population groups.*

## Summary

Around a third of submissions responded to the question of guiding principles in law. Of those:

- the majority supported including principles in law
- around 110 submissions gave examples or criteria for what the principles should address
- about 45 submissions discussed having principles in the Domestic Violence Act
- around 10 submissions discussed having principles in other legislation.

A range of possible principles were identified. The most frequent themes included statements that:

- New Zealand doesn't tolerate family violence
- people have a right to be free from violence
- the response to family violence must focus on the victim, including children
- coercive control is a form of family violence.

## What submissions said

### SUPPORT FOR PRINCIPLES

Of the submissions that addressed principles, most were generally supportive. Many recognised that principles could provide guidance to decision makers in cases involving family violence.

A distinction was made between principles:

- designed to identify objectives of the legislation
- to guide decisions made by agencies that respond to family violence
- to help develop a shared understanding of family violence, and those
- designed to identify considerations that judges are required to address when making decisions on individual cases before the courts.

There was greater support for general principles to identify the objectives of the legislation. A number of submissions suggested mechanisms be put in place to ensure the principles could be enforced.

Submissions included the comment that principles that bound judges to particular actions could be too prescriptive and reduce judicial discretion. The submission from the District, Family and Youth Court Judges (the Judges) emphasised the need for a proper evidential basis for judges to apply principles.

#### EXAMPLES OF SPECIFIC PRINCIPLES

Many submissions gave details of the principles they would like to see included in the legislation. They included the objectives of the legislation and factors to be considered by decision makers, both under the legislation and across the family violence system.

Some common themes were statements that:

- New Zealand doesn't tolerate family violence
- people have a right to be free from violence
- the response to family violence must focus on the victim, including children
- coercive control is a form of family violence.

Other themes included:

- a commitment to taking a cross-government approach to respond to family violence
- a commitment to addressing offender behaviour
- recognising the gendered nature of family violence
- recognising that some people may belong to multiple vulnerable population groups
- a commitment to implementing and enforcing the legislation
- recognising the impact of family violence on different populations, for example children, or people with disabilities, and the need to develop responses that address their needs.

Around 10 submissions referred to the use of principles in the preamble of the Family Violence Act 2008 of Victoria, Australia and supported using similar wording in the Domestic Violence Act. It was noted the Victorian Act states principles recognised by Parliament, rather than setting out principles that judges are required to apply.

# Part 2: Victim safety

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In part 2 of the discussion document, we asked whether current legal tools and powers are sufficient and effective at keeping victims safe and suit their needs. It covered:

- protection orders
- property orders
- Police safety orders
- parenting arrangements.

## Views on protection orders

### Background

We sought views (section 2.3, page 19) on protection orders. People were asked to respond to the following questions:

*What changes would you suggest to improve access to protection orders? For example:*

- *increased funding for applications for protection orders*
- *provide more opportunities for others to apply on victim's behalf.*

*What changes could enhance the effectiveness, use and enforcement of protection orders? For example:*

- *require Police to arrest for all breaches of protection orders, where there is sufficient evidence.*

### Summary

#### ACCESS TO PROTECTION ORDERS

Around half of submissions addressed issues to do with access to protection orders. About 25 submissions were from people with personal experience of protection orders. A common view was that freedom from violence is a basic human right and a victim shouldn't have to pay a fee to seek protection.

Of those addressing access issues, a large majority said access to protection orders could be improved by:

- lowering the cost to victims. Around 100 submissions said support with applying for protection orders should be free and/or suggested increased legal aid funding, either by increasing legal aid eligibility and/or by making legal aid accessible to a wider range of people
- providing more opportunities for others to apply for a protection order on a victim's behalf. About 100 submissions supported this idea. However, around 25 submissions discussed whether or not it was useful to require a victim's consent in such a process

- simplifying application forms and processes. Some submissions proposed online or telephone applications.

#### EFFECTIVENESS, USE AND ENFORCEMENT OF PROTECTION ORDERS

About 40% of submissions commented on the question of what changes could enhance the effectiveness, use and enforcement of protection orders.

Most of these submissions suggested greater consequences for breaching a protection order including the discussion document's suggestion of mandatory arrests for all breaches where there is sufficient evidence. Of these, around 20 submissions suggested mandatory arrests would give victims confidence that their protection orders would keep them safe.

#### What submissions said

##### FINANCIAL BARRIERS

Around 100 submissions suggested it was unfair for victims of domestic violence to have to pay to apply for an order granting them protection. The comment was made that some applicants were subject to financial abuse as part of an abusive relationship and were without the funds to pay for a protection order.

To reduce costs to victims, some suggested increasing legal aid thresholds and providing extra community law services; others supported creating a dedicated fund. A few suggested perpetrators could contribute to the legal costs of victims. Translation services would help people for whom English was a second language.

The Family Violence Death Review Committee (FVDRC) and several other submissions recommended increased funding for applications. It recommended funding being provided by specialist family violence agencies. The committee suggested this process would enable victims to immediately benefit from a range of safety services (including proactive multi-agency risk management, safety strategies and children's services). It said this would also make sure funding was not misused by perpetrators applying for protection orders by alleging primary victim status.

A very small number of submissions discussed the costs faced by people defending protection orders based on false allegations.

##### COMPLEXITY OF APPLICATION PROCESS AS A BARRIER

About 40 submissions supported simplifying the application process, including forms, to reduce legal and associated costs. Some people suggested applications be made online or by telephone.

Others suggested empowering or requiring Police, Child Youth and Family, or family violence providers to provide information to support the application. This would mean the victim was not solely required to provide all evidence of safety concerns. For example, Police could be required to provide a history of family violence investigations, convictions, previous protection orders and any recordings of violence. Others said family violence providers were specialists skilled in risk assessment and the patterns and dynamics of abusive relationships and they could provide useful information for the application.

## AVAILABILITY OF LEGAL ADVICE AND FAMILY VIOLENCE EXPERTISE

A small number of submissions suggested a lack of family violence expertise or lack of access to this expertise affected access to protection orders. Their reasons included a perceived reduction in the number of lawyers who do protection order work due to recent changes to Family Court processes.

Others discussed the need for Police, court staff, lawyers and the judiciary to better understand the nature and dynamics of family violence when giving advice or making decisions. This included understanding what constitutes psychological abuse and issues for population groups (including, for example, those with disabilities or a mental health issue, older people, and people with English as a second language).

## MORE OPPORTUNITIES FOR OTHERS TO APPLY FOR PROTECTION ORDER ON BEHALF OF VICTIMS?

Around 100 submissions supported third parties being able to apply for protection orders on behalf of victims. The Judges' submission supported simplifying the process outlined in the Domestic Violence Act and including a specific list of persons who would be eligible to apply on a victim's behalf instead of being required to be appointed to apply on a case-by-case basis.

About 100 submissions suggested anyone should be able to apply on behalf of a victim including, for example, whānau, friends, and professionals such as GPs and therapists. Some submissions considered only Police or a specialist family violence agency should be able to apply. For example, Police could establish family violence teams with responsibilities for making applications.

One submission suggested Child Youth and Family staff could apply for a protection order if required as part of a Family Group Conference plan as CYF staff already hold relevant information and are already able to apply for restraining orders against parents.

Other reasons in support of applications being made by third parties included removing the responsibility and blame from the victim and helping a victim who isn't able to apply themselves.

There were mixed views about whether a victim's consent should be required for an application to be made on their behalf. Many submissions suggested that taking away a victim's choice about what action to take, risked further disempowering them. Such disempowerment, they said, could diminish a victim's long-term outcomes and victims who didn't agree to a protection order might choose not to report breaches.

Other submissions referred favourably to the Victorian model in Australia where Police can apply without the victim's consent.

A few people considered it inappropriate for Police to apply on a victim's behalf, rather it should be done by a specialist agency that the victim is referred to.

## TIMELINESS

Timeliness of proceedings was another theme. One submission noted the delay between when an application was put on notice and that matter proceeding to a hearing. They said an applicant could be significantly prejudiced by the delay caused by the respondent not filing the notice of defence within the prescribed time. Also noted were the delays in serving protection orders which were sometimes a week or more.

## PERCEPTIONS OF PROTECTION ORDERS

Around 30 submissions said people didn't apply for a protection order because they weren't well enforced and more people would apply for them if they were seen to be effective. Conversely, about 15 submissions suggested some people did apply for an order for vexatious or trivial reasons.

## VIEWS ON MANDATORY ARREST FOR ALL BREACHES

Around 130 submissions addressed the idea that Police should be required to arrest people for all breaches of protection orders, where there is enough evidence. The document notes this is different from current Police policy of arresting and filing charges when breaches meet the Solicitor General's Prosecution Guidelines 2013 and a departure from longstanding principles of Police independence.

Most of these submissions supported mandatory arrest; the reasons included giving victims greater confidence their protection orders will help keep them safe and providing certainty for all parties, including the Police. This approach was seen as particularly useful to improving the response to forms of abuse not otherwise covered by an offence or for which a successful prosecution was unlikely, such as sending text messages or loitering outside the victim's workplace.

Another reason for supporting mandatory arrest was to ensure that perpetrators of abuse are held accountable for ongoing abuse and receive a clear message that continued violence will not be tolerated. One submission said the arrest would need to be timely, for example, within 24 hours of the report, in order to be effective.

Reasons given for not supporting mandatory arrest included the importance of Police retaining discretion. The New Zealand Law Society said too much prescription could reduce the ability of Police to respond appropriately to particular circumstances and could require Police to arrest for minor, technical or inadvertent breaches. It said some complainants may not want the perpetrator arrested or charges laid but simply want the perpetrator to desist from the behaviour.

More than 20 submissions said the amount of paperwork needed to be done by Police who responded to breaches of protection orders, was discouraging arrests.

## Other suggestions

Other suggestions included:

- establishing a 2-way protection order where both parties agreed to non-violence with greater accountability
- removing *reasonable excuse* as a defence to a breach of a protection order in section 49(2) of the Domestic Violence Act
- using GPS bracelets to monitor protection order respondents
- recording protection orders as part of criminal record or listing a final protection order as a criminal conviction
- introducing mandatory jail terms for breaches of protection orders, from 14 days to 3 months
- introducing new measures for multiple breaches
- including pets in protection orders (as well as in the definition of family violence)
- introducing a 3-strike system for breaching a protection order.

# Views on property orders

## Background

We sought views (section 2.24, page 23) on how property orders could be more effective. People were asked to respond to the following question:

*What changes would enhance the effectiveness, use and enforcement of property orders?  
For example:*

- *require judges to consider accommodation needs when making protection orders and property orders and to make property orders more proactively*
- *simplify enforcement mechanisms.*

## Summary

The need to consider and address the accommodation needs of victims and perpetrators was a strong theme in submissions. Submissions noted that uncertainty about accommodation is destabilising for adults and children, and setting up a new home is expensive.

Around 140 submissions (just under 30% of all submissions) addressed property orders. Of these, around 10 wrote from personal experience.

About 90 submissions supported requiring judges to consider accommodation needs when making protection orders and property orders. Around 45 submissions supported the idea that judges should make property orders more proactively while around 30 submissions supported simplifying enforcement mechanisms for property orders.

## Discussion of themes

### JUDGES TO CONSIDER ACCOMMODATION NEEDS WHEN MAKING PROTECTION ORDERS

Most submissions addressing protection orders wanted judges to consider accommodation needs when making protection orders and to make property orders proactively. The reasons included:

- ensuring support for victims who have to leave home to escape abuse
- simplifying the process of sorting out victim's affairs by dealing with accommodation and related issues such as contact with children and maintenance
- negotiating property or accommodation arrangements is a high-risk time and property orders help give certainty to victims and perpetrators
- reducing the possibility of ongoing coercive control by perpetrators to resolve these issues.

Around 20 submissions said for exclusion orders to be effective, a perpetrator must be able to move to alternative accommodation separate from their victim.

Needing to leave home to escape violence was raised as a particular issue for older people and people with disabilities. In the case of older people abused in their home by family members, the point was made that they could be forced to move into a rest home to avoid abuse. The perpetrator may then be in possession of the home and chattels. Therefore, fear of being forced into a rest home could deter older people from reporting abuse.

Around 10 submissions said the retrieval of items by the person moving to another location should be done in a way that minimises opportunities for further violence. For example, Police could be required or empowered to accompany the person who is removing personal property from the family home.

#### VICTIM AND CHILDREN'S NEEDS SHOULD BE PARAMOUNT

Around 45 submissions expressed the common view that when making decisions about accommodation, the safety and financial security of the victim and children should be paramount. Similarly, about 20 submissions stated perpetrators should be required to leave the family home.

#### SIMPLIFY ENFORCEMENT MECHANISMS

Most submissions supported simplifying protection orders and processes without making further comment.

#### **Additional ideas**

A few submissions made other suggestions about accommodation, such as:

- creating hostels, or funding for short-term accommodation, for perpetrators evicted from their homes, including for ethnic communities
- specifying in the property order the agencies that could remove property on the victim's behalf
- ensuring family violence perpetrators weren't able to benefit inappropriately by being able to claim half of a victim's property after 3 years under the Property Relationships Act 1976. This was raised as an issue for older people
- extending the Home Safety Service initiative to more centres and families
- having a process for ensuring non-resident person's access to items and furniture while ensuring the safety of victims
- better access to financial support
- raising awareness of the effect of property arrangements and/or process on children
- remedying the lack of alternative accommodation for perpetrators and/or men with children.

# Views on Police safety orders

## Background

We sought views (section 2.33, page 24) about how Police safety orders could provide effective protection to victims. People were asked to respond to the following question:

*What changes might enhance the effectiveness, use and enforcement of Police safety orders?  
For example:*

- *require Police to refer a perpetrator to services, such as short-term housing*
- *empower Police or a third party to support the victim to apply for a protection order, or apply on behalf of a victim, when a Police safety order is issued (if the victim consents, or does not object).*

## Summary

Around 150 submissions commented on Police safety orders. Most (around 90 submissions) supported requiring Police to refer perpetrators to services, such as short-term housing. Around 55 submissions wanted Police or a third party empowered to support a victim to apply for a protection order, or to apply on behalf of a victim, at the time a Police safety order is issued.

Another common suggestion, made in around 50 submissions, was to extend the period Police safety orders apply as the current timeframe doesn't give victims enough time to make decisions and arrangements for their ongoing safety.

A smaller proportion of submissions wanted harsher penalties for breaches of Police safety orders; around 20 submissions suggested arrest for all breaches.

## What submissions said

### REQUIRE POLICE TO REFER PERPETRATOR OR VICTIM TO SERVICES

Around 60% of submissions on Police safety orders supported Police being required to refer perpetrators to services either on the first or subsequent issue of a Police safety order. Examples of services included alternative accommodation for perpetrators, and programmes to stop violent behaviour.

### APPLICATIONS FOR PROTECTION ORDER WHEN A POLICE SAFETY ORDER IS ISSUED

Issues relating to third party applications are also covered in the preceding discussion about protection orders.

Most submissions addressing Police safety orders supported Police or a third party being empowered to support the victim to apply for a protection order when a Police safety order is issued. Submissions were split as to whether the victim's consent should be required. Two submissions were opposed to this idea including for the reason that if Police applied for protection orders, they would be seen as taking sides.

#### LENGTHEN DURATION OF POLICE SAFETY ORDER

Around 50 submissions suggested increasing the period Police safety orders are in force because the current duration of up to 5 days isn't long enough for victims to find support or develop a safety strategy. Also, this isn't enough time for the respondent to find help to change their behaviour. Suggested alternative durations ranged from 7 days to several weeks.

#### STRONGER ENFORCEMENT OF BREACHES OF POLICE SAFETY ORDERS

Around 30 submissions stressed the need to better enforce Police safety orders, including empowering Police to arrest for a breach and requiring all breaches to be considered by a court. Some suggested breaches of Police safety orders should appear on a respondent's criminal record so as to, among other reasons, send a message to perpetrators that it is unacceptable to contradict an order made by the Police.

# Views on parenting arrangements

## Background

We sought views (section 2.41, page 26) on how parenting arrangements could better reflect the risk of family violence to children and adult victims. People were asked to respond to the following questions:

*How should risks to children and to adult victims be reflected in parenting arrangements under the Care of Children Act 2004?*

*How could parenting orders and protection orders be better aligned? For example:*

- *clarify that a child's safety from all forms of violence is to be given greater weight and be a primary consideration*
- *require parenting orders to be consistent with any existing protection order*
- *courts could be given broader discretion to consider risk to the safety of the child and to an adult victim when deciding parenting arrangements.*

## Summary

Around 40% of all submissions addressed the issue of how parenting arrangements could better reflect the risk of family violence to children and adult victims.

The large majority (around 140 submissions) supported making child safety the paramount consideration in parenting arrangement decisions under the Care of Children Act. Two submissions (New Zealand Law Society and the Judges) said no change is needed, as judges are required to do this already.

Around 50 submissions discussed the links between child safety and the safety of the adult victim. About 30 submissions suggested violent parents should have no access to children and about 15 submissions said parental contact was important despite violence having occurred, on the basis a child has a right to contact with both parents.

Around 110 submissions supported requiring parenting orders to be consistent with any existing protection order.

About 90 submissions supported courts having broader discretion to consider risks to the safety of child and adult victims when deciding parenting arrangements.

## What submissions said

### MAKING CHILD SAFETY A PRIMARY CONSIDERATION

More than 70% of submissions addressing parenting orders supported the idea of clarifying that a child's safety from all forms of violence should be a primary consideration. Reasons given included that parenting arrangements are currently weighted towards the needs and rights of parents rather than the child.

Some submissions suggested giving more guidance to the judge about what to consider when making decisions about parenting arrangements where family violence is a factor. Considerations could include the experience of the child and the protective parent, the gendered nature of violence, and a comprehensive review of all information relating to the child.

About 30 submissions suggested violent parents should have no access to their children or only have supervised access. One submission said parenting orders should provide an opportunity, as well as safeguards, for a child to safely reconnect with a perpetrator parent without incurring extra risk to themselves or the non-violent parent.

Around 15 submissions discussed the child's right to contact with both parents. Of these, most argued parental contact was important for the perpetrator and the child, despite violence having occurred. They said any limits to access should only be applied on the basis of clear evidence of risk.

Other submissions suggested no change is necessary as judges are already required to treat a child's safety as paramount. Section 5(a) of the Care of Children Act states a child's safety *must* be protected and, in particular, a child *must* be protected from all forms of violence as defined in the Domestic Violence Act.

#### REQUIRE PARENTING ORDERS TO BE CONSISTENT WITH PROTECTION ORDERS

Around 115 submissions supported requiring parenting orders to be consistent with protection orders. Reasons included that it would enhance victim safety and make protection orders more effective. If the orders are inconsistent, adult victims may be required to compromise their own safety to meet the conditions of parenting orders.

Reasons given for not supporting this idea included the risk of it deterring victims from applying for protection orders if they still wanted their child to have a relationship with the other parent. It might also encourage victims to apply to discharge a protection order early.

#### CONSIDERATION OF RISK TO ADULTS IN PARENTING ARRANGEMENTS

Many submissions touched on the risk to adults in parenting arrangements. Some framed this issue in terms of the connections between child safety and adult safety. Others discussed the potential for parenting arrangements to increase risk to adult victims. Around 90 submissions supported courts having broader discretion to consider risks to the safety of the child and adult victim when deciding parenting arrangements.

About 50 submissions suggested child safety is linked with adult victim safety. Witnessing violence or a parent's fear could be detrimental to children, they said, while the safety and wellbeing of a protective parent is also linked to the children's recovery from a history of living with family violence.

Around 15 submissions, including some individuals identifying as supporters of the organisation \*Shine, thought the courts should be able to impose protective conditions where there is psychological abuse as well as physical or sexual abuse.

Around 10 submissions discussed that, currently, supervised contact arrangements are being made that require the victim to compromise their safety by making it necessary for them to maintain contact with the perpetrator. Around 10 submissions thought judges often put parental rights before victim safety and discussed the need to ensure victim safety in handovers.

A few submissions suggested establishing an independent handover service to limit the risk victims faced when picking up or dropping off children when sharing day-to-day care or facilitating contact.

## VICTIM RELOCATION ISSUES

Around 40 submissions discussed victim relocation issues (some of these came from individuals identifying as supporters of the organisation \*Shine). A clear majority of them suggested it is hard for victims to move forward with their lives and find support if they are required to live in a particular location due to a parenting arrangement.

One submission saw a victim's inability to relocate as an additional power the perpetrator could use to punish the victim.

## COURT PROCESS OR APPROACH

About 35 submissions discussed the court process or approach in dealing with parenting arrangements and Family Court proceedings. A few submissions were dissatisfied with the current adversarial system and several suggested changing to a more inquisitorial approach.

Around 5 submissions discussed the need for better screening processes to determine the most appropriate course of action for a given family, including a more robust risk assessment process to determine the risk to victim and child. Comments included that, despite evidence of family violence, some families were connected to family dispute resolution. Some noted the potential for the perpetrator to pressure the victim into agreeing to an arrangement they feel is unsafe.

A few submissions discussed the need for better safeguards, such as giving evidence electronically, to prevent the perpetrator from harassing and intimidating the victim during proceedings.

## ARRANGEMENTS FOR SUPERVISED CONTACT

Around 35 submissions discussed supervision arrangements. Many of these expressed dissatisfaction with the current system of supervised contact. A few said court-approved supervisors sometimes included the perpetrator's family and friends, who could continue to harass the victim during handovers of children.

Some submissions suggested there should only be supervised contact once a perpetrator completed counselling or a programme to manage their violent behaviour and could prove they were a reformed and competent parent.

A few submissions suggested it is difficult to access supervised contact because of availability and cost. Others said for supervision to be effective, the government should fund agencies and venues to provide supervised contact.

## Other suggestions

Other common themes (in around 40 submissions) included:

- barriers to victims relocating to another town for safety and access to family support
- supervision arrangements and/or ensuring victim safety at handover
- the need for improved assessment and screening processes and recognition of the dynamics of coercive control and perpetrator manipulation.

# Part 3: Prosecuting family violence perpetrators

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## Views on a framework for family violence offences

### Background

We sought views (section 3.1, page 31) on whether existing criminal offences adequately describe and categorise the behaviours of family violence perpetrators. People were asked to respond to the following question:

*What changes, if any, could be made to the criminal law to better respond to family violence, including the cumulative harm caused by patterns of family violence? For example:*

- *create a stand-alone family violence offence or class of family violence offences*
- *create a new offence of psychological violence, coercive control or repeat family violence offending*
- *make repeated and serious family violence offending an aggravating factor at sentencing.*

### Summary

Just under 40% of submissions (around 185) addressed the issue of whether the criminal law should be changed to better respond to the cumulative harm caused by patterns of family violence.

Around 120 submissions supported making repeated and serious family violence offending an aggravating factor at sentencing.

About 100 submissions supported creating a new offence of psychological violence, coercive control or repeat family violence, or creating stand-alone family violence offences. A few submissions suggested including non-fatal strangulation as a stand-alone family violence offence.

Fewer than 10 submissions didn't support one or more of the ideas for reasons including the current legislative framework was adequate, problems with definitions or abandoning existing case law, and the risk of lessening the perceived seriousness of offending.

## What submissions said

### STAND-ALONE FAMILY VIOLENCE OFFENCE OR CLASS OF OFFENCES

Around 115 submissions supported introducing a new stand-alone offence or class of offences for one or several of the following reasons. It would:

- send a signal that New Zealand has zero tolerance for family violence
- help to identify patterns of behaviour for a single perpetrator
- enable family violence offending to be added to an offender's criminal record
- improve monitoring levels of family violence offending.

Around 20 submissions proposed family violence offences being in addition to existing charges such as male assaults female so that those penalties would still apply. For example, WAVES (Waitakere Anti-Violence Essential Services) and the New Zealand Family Violence Clearinghouse suggested any new family violence offences shouldn't replace existing charges but be available in addition to existing offences such as assault or property damage. A few submissions suggested that given a choice of offences, prosecutors should be required to use the family violence-related charge.

The New Zealand Law Society, the Judges and a small number of individuals submitted they didn't think it was necessary to create a new family violence offence or class of offences. The Judges suggested the proposal to create a single family violence offence overlooked the different elements of proof involved with each possible offence. They said the risk was it would be seen as appropriate and easier to charge an offence as a generic family offence when a more serious offence was disclosed. Instead, they suggested creating a new subset of offences using the additional words 'being a family violence offence' and incorporating terms used in other legislation such as the Bail Act 2000 and the Sentencing Act 2002.

Around 20 submissions provided other suggestions for the range of behaviours to be considered for family-violence related offences (for example, strangulation, intimidation, threats to relationship property, neglect). One submission said other jurisdictions are either exploring creating a class of family violence offences (for example, the UK Law Commission) or had already done so (for example, some US states).

Several submissions were potentially supportive of a new offence or class of offences but were concerned that a stand-alone family violence offence might be taken less seriously than other types of offences and become the default offence in family violence cases, even where a more serious charge would be warranted. While supporting the creation of a stand-alone family violence offence, the Canterbury Family Violence Collaboration emphasised that penalties for family violence offences must not be less than those for existing charges (for example, male assaults female). The Family Violence Death Review Committee suggested harsher penalties were appropriate because of the nature of family violence often being a pattern of behaviour and involving multiple victims.

Several submissions suggested harsher penalties or punishment would be ineffective as a means of reducing violence and instead the emphasis should be on helping to break a cycle of violence as perpetrators are often from families with a history of violence.

## NEW OFFENCES - PSYCHOLOGICAL VIOLENCE, COERCIVE CONTROL OR REPEAT VIOLENT OFFENDING

Around 120 submissions supported creating new offences for psychological violence and coercive control. Their reasons included sending a signal of zero tolerance for all forms of family violence and raising awareness that psychological violence that isn't accompanied by physical violence can still be harmful. The Violence Free Network Wairarapa suggested wording, similar to that used in UK legislation, which includes reference to sustained patterns of extreme emotional and psychological abuse, would be appropriate.

Some submissions included descriptions of behaviours that should constitute coercive control such as verbal abuse, breaches of parenting orders or failure to co-operate over parenting or property arrangements.

Around 10 submissions raised concerns or stressed the need to define the concepts of psychological violence and coercive control carefully so their application is well understood and consistent. The Judges' submission suggested there may be some difficulties proving an offence of coercive control to the criminal standard.

A few submissions suggested an offence of coercive control could criminalise day-to-day negotiation between partners that, at certain points in time, might involve controlling behaviour.

Few submissions supported the introduction of a new offence of repeat offending, with more supporting adding repeat offending as an aggravating factor in sentencing.

## VIEWS ON AGGRAVATING FACTORS AT SENTENCING

About 125 submissions from individuals and family violence groups supported considering repeat or serious family violence offending as aggravating factors at sentencing. Many supported the consideration of a pattern of breaches of orders; others supported including psychological violence or coercive behaviour.

A few submissions suggested repeat offending should be considered when making parenting and property arrangements. However, the New Zealand Law Society suggested repeat criminal offending of any type is already an aggravating factor considered at sentencing.

The organisation JustSpeak didn't support making repeat domestic violence offending or patterns of behaviour a separate aggravating factor at sentencing because this might extend to including behaviours that resulted in charges, thus going against the presumption of innocence.

### Other suggestions

About 30 submissions made other suggestions, such as:

- introducing harsher sentencing, ranging from suggestions of capital punishment to prison sentences comparable to the time it takes for a victim to recover
- prosecuting all perpetrators of family violence and/or all who breach protection orders
- providing for offender education and rehabilitation in sentencing (that is, including rehabilitation as a sentencing option)

# Views on victim safety in bail and sentencing decisions

## Background

We sought views (section 3.16, page 34) on more consistent consideration of victim safety in bail and sentencing decisions. People were asked to respond to the following question:

*What changes would ensure victim safety is considered in bail decisions and sentencing decisions? For example:*

- *Require judges to make victim safety the paramount consideration in bail decisions in all family violence offences or for specific charges such as male assaults female.*
- *Empower judges to place additional conditions on people on bail or remanded in custody for any family violence offence.*

## Summary

Around a third of all submissions (about 155) discussed issues relating to victim safety in bail and sentencing decisions. Around 135 submissions supported requiring judges to make victim safety the paramount consideration in all bail decisions about family violence offences or specific charges such as male assaults female.

Around 60 submissions supported improvements to bail or empowering judges to place additional bail considerations.

Other suggestions included:

- incarcerating offenders until sentencing rather than bailing them or excluding them from the victim's location
- informing victims of the release of the accused on bail and bail conditions, including using GPS tracking and safety alarms
- mandatory alcohol, drugs and mental health assessments
- mandatory re-education or family awareness training and other alternative pathways
- providing victim advocacy workshops for victims
- Police developing safety plans with victims and having follow-up meetings.

## What submissions said

### VICTIM SAFETY PARAMOUNT

About 140 submissions supported making victim safety the primary factor in sentencing and bail decisions. Reasons included the need to prevent further abuse and harm to victims or others. A few submissions distinguished child safety as paramount. However, around 5 submissions suggested because victim safety is already a paramount factor, no further changes are necessary.

Some submissions further clarified that victim safety meant safety throughout the process: before, during and after sentencing and the granting of bail. For example, the Family Violence Death Review Committee suggested victim safety requires support and implementation during processes of information gathering, charging, sentencing, the management and conditions of sentence and once a sentence was served. They suggested this requires the involvement of a range of agencies including Police, prosecution, judges, restorative justice practitioners and Corrections to develop strategies to support victim safety.

Other submissions mentioned safety in terms of respite from the perpetrator as well as preventing further abuse and ensuring the victim has access to support and services independent of the outcome of prosecution. One of the most common ideas mentioned was to check and ensure the accused person is bailed to an appropriate and genuine address. This is important, said some submissions, to avoid a situation where the perpetrator is bailed to the victim's residence or an area close by.

About 10 submissions suggested Police or an advocate should be able to provide more support to complainants, including help with developing safety plans and information about sentencing and bail.

A few submissions suggested there needed to be a safe process where victims were asked their views on bail. One submission discussed how they felt pressured by a perpetrator to ask for bail in a courtroom. Wellington Rape Crisis and a number of academics said victims were often too frightened to give their views in court because the perpetrator may retaliate.

Other submissions focused on making sure a victim would be safe after sentencing or bail by ensuring appropriate bail conditions, the development of safety plans, and other types of support.

#### ADDITIONAL CONDITIONS ON BAIL OR REMAND IN CUSTODY

Around 65 submissions supported judges being empowered to place additional conditions on people on bail or remanding them in custody for any family violence offence. Some emphasised the need for judges and those granting bail to have a strong background in understanding the dynamics and nature of family violence.

Many suggested perpetrators be remanded in custody, electronically monitored or otherwise closely monitored. They said any breaches of bail should be followed up; a few acknowledged additional resources would be needed to do this.

A few submissions suggested victims should be kept informed of the whereabouts of perpetrators to ease fears for their safety. One or two submissions mentioned that, in their situation, remanding the perpetrator in custody had not prevented the perpetrator harming them through extended family or other means.

Around 25 submissions discussed bail conditions. Of these, a few suggested mandatory mental health and psychological assessments, drug and alcohol assessments, and conditions banning the use of alcohol, drugs, social media and restricting access to firearms.

A few suggested perpetrators should have no access to children while on bail. A small number suggested judges be able to order long-term treatment options for offenders not just attendance at an anti-violence course.

Some submissions suggested it was important for perpetrators to access treatment while in custody or as a bail condition. Some said more intense and effective forms of treatment, with adequate monitoring, were needed to change a perpetrator's behaviour.

The Judges' submission supported the suggestions about bail mentioned in the discussion document. They noted the application of mandatory considerations would require judges to be provided with adequate information relevant to the assessment of risk.

## IMPROVING BAIL

Around 65 submissions suggested other ways to improve bail.

As well as checking that bail addresses are genuine and appropriate in terms of ensuring victim safety, submissions suggested it was important to ensure that perpetrators would have some form of support at their bail address so they would be less likely to harm victims. Around 5 submissions suggested there is a need to provide those on bail with accommodation separate from their victim. One submission distinguished offenders who pleaded not guilty to family violence matters and suggested they be bailed away from their victim to prevent interference with witnesses or evidence, or reoffending.

Another suggestion was that as well as being well grounded in the dynamics of family violence, judges and others making bail decisions should be provided with more information (including a victim's views and advice from agencies working with families) to help them make decisions that would be safe for the victim. A small number of submissions supported extending the pilot bail information project where Police provide judges with a summary of all previous family violence offending whether or not bail is opposed. A few submissions suggested judges and lawyers be held accountable for their decisions.

Also suggested was better monitoring and enforcement of bail conditions as ways to improve the effectiveness of bail and making sure victims were safe.

### **Other suggestions**

A small number of submissions suggested how to keep victims safe in sentencing and bail decisions over and above those mentioned in the discussion document. These included introducing a law similar to the UK's Domestic Violence Disclosure Scheme (Clare's Law, which allows people to find out if their partner has a history of domestic violence) or establishing a register of family violence offenders so that someone can find out a person's family violence history.

Some academics noted concerns over the ability of perpetrators to access all information given to the judge in bail applications. They feared this meant victims were too afraid to be completely honest about the extent to which they were scared for their safety.

# Views on criminal court judges' powers

## Background

We sought views (section 3.24-3.27, page 36) on whether judges in criminal proceedings should have wider powers to vary civil orders. People were asked to respond to the following question:

*What changes would you suggest to improve judicial powers in criminal proceedings? For example:*

- *give judges in criminal proceedings greater powers to vary protection orders on the basis of information they hear during trials*
- *empower judges in criminal proceedings to refer the question of varying a protection or parenting order directly to the Family Court.*

## Summary

About a quarter of all submissions (around 125) addressed the issue of changes to judicial powers in criminal proceedings. Around 100 submissions supported giving judges in criminal proceedings greater powers to vary protection orders based on the information they heard during trials. Around 65 submissions wanted judges in criminal proceedings to be able to refer the question of varying a protection or parenting order directly to the Family Court. A small number of submissions didn't support one or both of these ideas.

## What submissions said

### POWER TO VARY PROTECTION ORDERS OR REFER MATTERS TO FAMILY COURT

Reasons in support of increasing judges' powers included:

- protecting victims from having to go back to the civil courts to vary a protection order following a criminal conviction
- encouraging judges to take a holistic approach to family violence
- speeding up processes.

The Family Violence Death Review Committee, and others, noted the concern that referring the question to the Family Court could delay criminal proceedings. Around 30 submissions indicated a judge in criminal proceedings should only have the power to make variations that enhance the safety of a victim.

The main reason given for not supporting increased judicial powers to vary protection orders was that it isn't appropriate for the criminal jurisdiction. The Family Violence Death Review Committee, for example, said a District Court judge may not have access to all the information a Family Court judge has. The committee said it would prefer an 'integrated court' (see more in the next section).

The Judges' submission also didn't support increasing the power of the judiciary, on the basis that District Court judges won't know the full information that led to the Family Court order, and also because they lack the expertise of the Family Court. The Judges said they would prefer that a judge in criminal proceedings refer the question of varying a protection order or parenting order directly to the Family Court.

The New Zealand Law Society also supported a referral system and suggested if there was better sharing of information between courts, Family Courts would have access to what judges hear in criminal trials. They also suggested it would be inappropriate for parenting orders to be dealt with in the criminal jurisdiction. The Law Society said the Family Court is the best place to deal with such matters because they may have information relevant to the child's welfare and best interests which the criminal jurisdiction doesn't have access to.

# Views on changes to court processes and structure

## Background

We sought views (section 3.16, page 34) on improving the consistency and timeliness of family violence cases. People were asked to respond to the following question:

*What changes would you suggest to court processes and structure to enable criminal courts to respond better to family violence?*

## Summary

Around 35% of submissions (around 180) addressed the question of changes to court processes and structure directly, while some commented on court structures and processes when discussing other topics. Common suggestions were to streamline court processes and make them more focused on victims. Proposals included improving timeliness of proceedings, reducing the complexity of processes, and having a greater emphasis on a victim's comfort and safety throughout the process. Many suggested that delays in court hearing dates prolonged or reintroduced stress for victims and their families.

Some submissions suggested the judiciary, lawyers and court staff needed extra training on family violence. A few said more awareness on the part of these groups would help prevent perpetrators manipulating the court system to cause the victim further harm.

Some suggested changing courts structure. Some examples included introducing a dedicated Family Violence Court, integrating the family and criminal courts, or using an inquisitorial rather than adversarial approach for family violence cases. Some of these submissions suggested family violence is a specialised area and dedicated court resources would improve the effectiveness of responses.

Another suggested change was to increase the knowledge base around family violence among judges and court staff so they could respond to cases more appropriately. Some proposed that more information about court processes and what to expect be available to victims, perpetrators and their families.

## What submissions said

Submissions on improving court processes and structures covered several inter-related areas. For example, timeliness could be improved by improving the judges' knowledge of family violence so they could recognise and prevent perpetrators manipulating the system. Some submissions suggested specialist courts may also process more cases more quickly.

### MAKE COURT PROCESS SIMPLER AND FASTER

Around 40 submissions indicated they wanted earlier court dates and fewer delays. It was suggested that improving the timeliness of hearings would increase victim safety, reduce victim stress and help victims more quickly recover from trauma.

Submissions, including those from New Zealand Law Society, the Family Violence Death Review Committee and the Judges, indicated criminal court processes for criminal proceedings relating to family violence were too drawn out and this delay undermined effective intervention in family violence cases by District Courts. It was also suggested that improving the timeliness of proceedings could prevent a perpetrator prolonging proceedings as a way to harass the victim.

Suggestions for improving timeliness included extra courts, longer operating hours, and ensuring lawyers and judges were ready for hearings and adequately trained in family violence, including in recognising coercive behaviour.

A few submissions focused on how court delays affected victims, including the financial costs associated with arranging days off work, childcare, and transport as well as the stress and safety risks incurred while waiting for a hearing. Delays could also mean victims needed to revisit difficult situations that occurred months, if not years, before, making it difficult for them to get on with their lives.

Other submissions including the Public Health South service of Southern DHB and Hauraki Family Violence Intervention Network suggested improving court processes by having specialist staff trained in family violence including judges, Police, prosecutors, victim advisors, court staff and associated community support services.

#### MORE SUPPORT TO VICTIMS

Around 40 submissions from individuals and organisations suggested courts needed to do better at minimising victim stress, protecting victim wellbeing during proceedings, and taking a victim-centric approach. Such an approach, they said, could help prevent the victim from being re-traumatised by the court process.

Around 15 submissions suggested perpetrators had too much power in court proceedings. Some said victims suffered further victimisation during court procedure, particularly if they were cross-examined by a defence lawyer. The value of victims being able to read a Victim Impact Statement to the perpetrator was emphasised; others suggested vulnerable victims such as children, older people or those with disabilities should be able to take part by video link rather than appear in court in person. The New Zealand Law Society suggested closed courts for family violence cases, particularly when victims were required to give evidence.

Other suggestions included:

- separating the victim and perpetrator during the process to ensure the victim's comfort,
- giving the victim more information about the court process, including explaining the process better and ensuring they had appropriate and necessary legal resources
- improving the responsiveness of courts to people with mental health problems or a disability.

#### DEDICATED FAMILY VIOLENCE COURT OR INTEGRATION OF COURTS

Around 30 submissions suggested a dedicated Family Violence Court; a few suggested some form of integration of the family and criminal courts. The Family Violence Death Review Committee said integrated courts would allow for better sharing of information, reduce the time victims spent navigating complicated court structures, and be better able to connect victims to specialised advocacy services. A few submissions suggested restorative justice or holding court hearings on marae (these ideas are discussed further in the additional pathways chapter).

Reasons in support of Family Violence Courts suggested they could:

- increase the timeliness of case processing by accelerating sentencing and reducing the risk of deferred hearings
- have staff who specialised in family violence
- encourage community-based or delayed sentences (when safe to do so), so a perpetrator could stay in their community while they access treatment, if this is what the victim wants
- take a more therapeutic approach, which may be better suited to one-off, low risk, situational cases
- afford greater opportunities for pre-sentence intervention, providing perpetrators with more incentive to make progress towards change before sentencing
- increase the consistency of how family violence cases are dealt with by ensuring the same processes for similar offending apply across New Zealand
- increase the potential for information sharing.

However, the Auckland District Law Society suggested the decision about whether or not a case is heard in a Family Violence Court should depend on the seriousness of the offence. It suggested more serious family violence-related offences shouldn't be heard in these courts because the therapeutic approach taken isn't appropriate for these cases.

Around 20 submissions discussed the adversarial approach and generally suggested an inquisitorial approach would be more appropriate for the sensitive nature of family violence cases. If the court was involved in investigating the facts of the case, rather than taking a victim versus perpetrator approach, processes would improve, they said.

Examples included better gathering of evidence so victims might not have to go through the trauma of testifying; less drawn-out proceedings, leading to earlier resolution; and a less aggressive approach when cross-examining victims, leading to a reduction in feelings of re-victimisation and stress. Using aspects of the inquisitorial approach might also help reduce the amount of power and control the perpetrator has over the victim in the courtroom, particularly if the perpetrator is the one with greater financial resources.

#### MORE TRAINING FOR JUDGES

About 30 submissions (including from family violence agencies such as refuges) suggested a need for more education for judicial staff about understanding family violence. They said this would result in safer decisions and more recognition of the tactics used by perpetrators to manipulate the court. A few submissions suggested judges needed more training in dealing with the needs of specific population groups, such as older people or those with disabilities.

#### MORE RESOURCES AND TRAINING OF COURT WORKERS

About 30 submissions indicated courts and court workers should have better funding and more resources. They said this would ensure courts are more efficient and court staff are better trained about the dynamics of family violence, and could provide advice to victims, perpetrators and their families.

# Part 4: An additional pathway to safety

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## Views on an additional pathway

### Background

We sought views (section 4, page 38) on creating an additional pathway for victims, perpetrators and whānau who wanted help with stopping violence but may not want to, or be able to, enter the justice system. People were asked to respond to the following questions:

*What are your views on an additional pathway for families who seek help to stop violence escalating? Is such a pathway necessary or appropriate?*

*What are your views on the range and type of services that might be appropriate in the circumstances?*

### Summary

About 45% of submissions (around 215 submissions) addressed the issue of an additional pathway or more generally described the services they thought should be readily available to victims, perpetrators, and their families.

There was a strong view that victims, perpetrators and children should have easier access to a wider range of services without needing to go through the justice system. Many submissions acknowledged the need for additional resources to achieve this. A few emphasised the need for services to be culturally appropriate and available to particular vulnerable groups.

Restorative justice and mediation processes received a mixed response – of those who mentioned these processes, many strongly cautioned against their use. Reasons included that they aren't appropriate for family violence situations where a victim might be fearful and a perpetrator might use coercive control.

In support, reasons included that they were an alternative to court processes, they provide more opportunities for victims to have their say, and they may suit Māori and Pasifika families.

## What submissions said

Most submissions addressing this topic supported an additional pathway for reasons including:

- to prevent or reduce harm
- to focus on contributing or related factors such as emotional trauma, mental health issues, and alcohol or drug addiction
- only a small fraction of family violence cases go to court, therefore pathways are needed to support victims and their families
- support for a less punitive approach.

Some submissions didn't support an additional pathway for reasons including the risk that family violence would be minimised or excused unless dealt with through the justice system, and victims might fall between services if too many services were involved.

Others suggested services should suit individual circumstances, with the pathway aligning with the outcome being sought. For example, where a victim doesn't want to break up the family unit or risk losing access to the children. Other submissions emphasised the need to simplify access to services and suggested using a skilled navigator to support families through the pathways.

Some submissions suggested an alternative pathway was appropriate in limited circumstances. For example, when perpetrator and victim had both committed to stopping the use of violence in their environment.

### PRIMARY PREVENTION ACTIVITIES

Around 20 submissions suggested some form of primary prevention activity was key to preventing future family violence. About 25 submissions mentioned the role of schools in this. Examples of activities included raising awareness that violence is unacceptable, teaching alternative ways of working through relationship difficulties, and parenting programmes.

A few submissions discussed primary prevention in vulnerable groups. Suggestions included requiring recent migrants and community leaders to go to family violence education and raising awareness about where to go for help with relationship difficulties.

A few submissions supported continuing the 'It's not OK' campaign. Some noted campaigns should also focus on violence against men or people with disabilities.

### IDENTIFICATION AND INITIAL RESPONSE

Many of the submissions on this topic supported early intervention to prevent violence escalating. Some of these submissions focused on the availability of services for individuals, couples or families who wanted to get help for themselves as individuals or as a family. Around 70 submissions suggested some form of counselling, while about 35 submissions discussed self-referral to services.

A small number of submissions mentioned primary health professionals and said those in the education sector could help identify families or individuals who needed help to stop violence escalating.

Many submissions supported investment in therapeutic services for victims, perpetrators and families. Examples given included residential counselling, individual therapy, group therapy or counselling, behavioural therapy, anger management, and whole family approaches. Some submissions recommended counselling to address underlying issues such as gambling, addictions or mental health issues or focused on skills such as anger management and conflict negotiation.

Other types of services suggested included:

- helping families or couples stay together
- more services for men
- more courses focused on stopping violence for people who wanted to do something before it escalates. In particular, it was suggested making programmes available without people having to contact the justice system
- sexual violence programmes, which are seen as effective in preventing reoffending and further victimisation.

The Family Violence Death Review Committee supported connecting several different services and placing them in easily accessible locations. This could allow for greater face-to face contact and increase the likelihood of people engaging with the services.

A few submissions noted the need for services to be culturally appropriate to reduce language and cultural barriers. This would enable Māori, in particular, to be more engaged in addressing family violence. For example, some people supported whānau models including restorative whānau conferencing and those based on Māori tikanga. The Family Violence Death Review Committee commented that kaupapa Māori family violence advocacy services are essential as they focus on addressing whānau violence and achieving whānau ora.

#### INCIDENT RESPONSE AND IMMEDIATE SAFETY

Most comments about incident response referred to the actions of the Police. Other key themes included separating the perpetrator from the victim, supporting the victim to develop a safety plan and addressing related matters such as income support and accommodation.

A few submissions suggested responders should be more skilled at recognising particular vulnerabilities. Examples included recognising situations where people may have mental health issues, psychological conditions (such as brain injury), alcohol and drug issues or where older people or those with an intellectual disability can't express themselves clearly. Some submissions also supported greater availability of accommodation for perpetrators to reduce the risk of breaches of protection orders and Police safety orders.

A few submissions supported services for men, such as safe houses for men and men's refuges. These submissions commented that male victims aren't treated seriously enough and don't receive adequate support or access to emergency accommodation.

#### FOLLOW-UP

Many submissions supported the availability of ongoing support, including:

- counselling or other therapeutic support for victims, perpetrators and families
- income support to reduce financial dependence
- specific treatment services for children affected by family violence
- Police follow-up to ensure victims are safe
- access to mental health and addiction services.

There were mixed views on restorative justice or mediation as an additional or alternative pathway to the justice system. While a few submissions were supportive, many more had concerns about these processes. Around 45 submissions raised concerns about the use of restorative justice and/or mediation in a family violence setting. These submissions discussed issues such as a power imbalance between perpetrator and victim; that a victim might feel pressured to participate despite feeling unsafe; and that the processes could put victims at risk as sometimes remorse and apology can be part of the abuse cycle. Some submissions suggested these processes may only be appropriate if the offender has engaged meaningfully in a 'stopping violence' programme and where highly skilled practitioners are running the processes.

A few submissions did support using restorative justice or mediation because they considered it achieved better outcomes for all parties by increasing victim participation and voice, heightening offender accountability, and strengthening community involvement. Some submissions also supported these processes as being particularly appropriate for Māori families because in Te Ao Māori, family violence isn't just an assault on a single victim; it's an attack on whānau and whakapapa.

The Family Violence Death Review Committee noted restorative justice approaches had received mixed responses. It would like to see a much stronger evidence base for the efficacy of these programmes before they are introduced for situations where offending is ongoing.

# Views on the Police response to reports of family violence

## Background

We sought views (section 4.9, page 39) on the Police response to family violence. People were asked to respond to the following question:

*What are your views on clarifying in law that Police take at least one of the following steps when responding to family violence reports:*

- *file a criminal charge (or issue a warning)*
- *issue a Police safety order*
- *make a referral to a funded service or services or an assessment.*

## Summary

Submissions on this section covered two issues: whether the law should specify the options Police have when responding to a report of family violence and, if so, what the options should be.

Around 112 submissions (just under 25% of submissions) commented on Police responses. The majority (92 submissions) supported specifying the options Police have when responding to reports of family violence.

Smaller numbers of submissions suggested Police shouldn't be subject to a mandatory options framework or that Police are already effectively responding to domestic violence cases. The reason given was that Police must retain their ability to decide not to act if they feel no course of action is warranted. A few submissions mentioned it is important for Police to have the flexibility to decide the best course of action in any given case.

## What submissions said

### SHOULD LAW SPECIFY POLICE OPTIONS?

Most submissions on this topic supported the law specifying the options Police have when responding to family violence and that Police should be required to use at least one of these prescribed options. Reasons included that prescribing Police action when a report of family violence is first received could help protect victims, and help victims and perpetrators gain access to services. Some of these submissions also suggested additional follow-up would help ensure victim safety including Police following up with victims and services being monitored. A few submissions suggested Police should also gather evidence during family violence call outs.

Around 5 submissions argued no change was needed because Police already adequately respond to family violence incidents and it was important they had flexibility to decide the best course of action in each case.

While a few submissions supported the idea of Police options being clarified in law and noted the suggested options were good, they also said Police shouldn't be required to use these options in every situation. With better Police education and clear effective options, Police discretion is the best way of dealing with domestic violence incidents, these submissions said.

A few were concerned that if Police were required to take certain courses of action, this might discourage victims from reporting offences.

## FILE CRIMINAL CHARGE

Most submissions on this topic favoured the option of Police filing charges when responding to family violence reports. Their reasons included:

- Police don't take domestic violence seriously
- requiring Police to file criminal charges takes responsibility from the victim and puts it on the state, where it should be
- criminal charges show offenders that society takes domestic violence very seriously.

A few submissions, while supporting criminal charges being an option for Police, stressed this should only be in the most serious cases or after a Police warning or order has been ignored.

Submissions were split as to whether the views of victims should or shouldn't be taken into account when Police filed charges against perpetrators. Organisations such as Women's Health Action and the Horowhenua Abuse Liaison Team stressed that Police should have the option to arrest the perpetrator without the victim's consent. They argued that testifying against the offender nearly always increased a victim's risk. Other submissions said the victim's consent should be required in order to empower women.

## ISSUE POLICE WARNING

A few submissions suggested issuing a warning should be dependent on certain conditions. For example, if there is no physical violence or if it is the first time Police have attended, and Police should document the warning.

Around 5 submissions didn't support this idea because they felt a perpetrator wasn't likely to take a warning seriously. About 5 submissions argued that including the option of issuing a warning defeated the purpose of requiring Police to use a codified set of options. Submissions raised the concern that Police may just issue warnings and continue the status quo.

## ISSUE POLICE SAFETY ORDER

Most submissions on this topic supported the issuing of a Police safety order as an option for Police when responding to reports of family violence. Reasons given included that:

- Police safety orders, when enforced correctly, are an effective way to defuse a situation and give the victim time and space to consider options. The submissions pointed out that Police safety orders allowed a victim to make decisions over a few days rather than 'on the spot, in the middle of the night'
- Police safety orders are a good way to balance the rights of the victim and the perpetrator to a fair process
- Police safety orders give Police time to further investigate the most serious cases while ensuring a victim's safety.

A few submissions expressed concern that anything short of imprisonment will not ensure a victim's safety.

#### REFERRAL TO A FUNDED SERVICE OR SERVICES

Just under half of submissions (around 90) which addressed the Police steps question, supported the option of Police being able to refer perpetrators to funded services. Reasons included:

- if Police were unsure of what step to take, a referral should be the default option
- the funded service would be another way, outside the family, to 'keep an eye on' the situation.

A few submissions suggested a referral shouldn't replace more serious action if it was warranted. One submission said they didn't believe referrals were useful without practical steps to stop the violence.

About 25 submissions which supported the idea of Police referrals stated agencies would need more funding if this was to happen. Otherwise, they said, agencies would be overworked and ineffective.

# Part 5: Better services for victims, perpetrators and whanau

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## Views on sharing information between agencies

### Background

We sought views (section 5.3, page 41) on agencies sharing information with each other. People were asked to respond to the following question:

*What changes could enhance information sharing between agencies in family violence cases? For example:*

- *creating a presumption of disclosing information where family violence concerns arise*
- *stating that safety concerns 'trump' privacy concerns.*

### Summary

About half of all submissions addressed how information sharing between agencies might be enhanced and what impact this might have.

Many of these submissions supported the idea that safety 'trumps' privacy, primarily to ensure victim safety but also to prevent perpetrators concealing their identity. A small number of submissions urged the importance of privacy and indicated the Privacy Act 1993 is fit for purpose.

A large number of submissions supported the idea of a presumption of disclosure, particularly when a child's safety is involved.

Several submissions said the variety of interpretations of the Privacy Act had created more problems than the Act itself and more training would be a more productive solution.

## What submissions said

### SAFETY 'TRUMPS' PRIVACY

Around 135 submissions supported the idea that safety 'trumps' privacy in issues of family violence.

A large number of submissions cited the benefits of better information sharing between agencies, such as making better informed decisions. It was thought if Police, criminal and family jurisdictions, and CYF could share information, this would help reduce incidence rates through awareness of prior offending or current behaviour. This was also seen as a way to reduce barriers faced by Police, whose work in this area was highly valued.

A significant number of submissions considered the nature of family violence. Some referred to the likelihood of recidivism and the abuse of many people across a perpetrator's lifetime as a reason for privacy to be of less concern in these cases. Protection of children was also identified as important as children are often unable to express or claim their rights. Therefore, there is a greater responsibility to ensure provisions are available to secure their safety.

Several submissions indicated that prioritising safety over privacy in legislation would allow agencies to collaborate more on difficult, high-risk cases.

A few submissions supported the idea of safety generally being more important than privacy. However, they were concerned that if victims were aware of their information being shared, they might see this as another barrier to disclosure or seeking help. The New Zealand Law Society suggested the New South Wales Children and Young Persons (Care and Protection) Act 1998 in Australia might be a possible model to follow.

### PRESUMPTION OF DISCLOSURE

Around 100 submissions were supportive of a presumption of disclosure, though they often didn't include specific reasons.

Of those that did include justifications, many referred to the suffering victims re-experienced when repeating their story multiple times. A presumption of disclosure was assumed to reduce the number of times victims would need to explain their circumstances and the number of people they would be required to directly disclose them to.

Submissions also stressed the importance of guidance and support when handling a presumption of disclosure so as to prevent further violence. For example, information about or from a victim that could endanger the victim shouldn't be provided to the perpetrator. Several submissions suggested information sharing could be encouraged by strengthening the provision for information sharing in the Privacy Act.

### DISCUSSION OF THE PRIVACY ACT

Around 50 submissions considered provisions in the Privacy Act already allowed for information sharing between agencies when necessary, but issues arose when interpreting the Act to determine the type of information that could be shared. There was a concern that allowing more open provisions would lead to overreaction or carelessness by some agencies and this would lead to greater risk for victims.

The submission of the Office of the Privacy Commissioner stated no law change was required to achieve the goals set out in the discussion document. This submission supported prioritising workforce development to reduce the ethical and operational barriers to information sharing, as opposed to legislative ones. Provision in the Privacy Act for disclosure of information when a person believes there is a threat to the life or health of another, as well as principle 11(e)(i), and sections 15 and 16 of the Children, Young Persons, and Their Families Act 1989, were seen to be sufficient. The Commissioner's submission also recognised that the sharing of sensitive information requires trust, and recommended 'the Ministry work to help agencies resolve information sharing dilemmas, support an environment of trust and ensure the existing legislative provisions are used appropriately to address family violence concerns'.

The Family Violence Death Review Committee suggested the Privacy Act and Domestic Violence Act be amended to include a presumption of responsible and safe information sharing between agencies where there are child protection and family violence concerns.

Of the other submissions that discussed this idea, around 15 suggested a possible solution would be to give agency staff better training and guidance around what the Privacy Act allows them to do in high-risk situations. This would also make information sharing more consistent and allow those seeking help to have a more accurate understanding of what to expect.

A small number of submissions expressed concern over the way the Privacy Act is currently interpreted, leading to the use of coercive tactics by Police in attempting to gain information from agencies where it might not be appropriate or safe.

#### GREATER COMMUNICATION AND COLLABORATION BETWEEN AGENCIES

A smaller number of submissions discussed the opportunity for more interactions between family violence agencies, particularly between non-government agencies as well as health and education providers.

Around 15 submissions suggested creating an online database or 'civic record' to allow agencies to flag individuals with a history of offending or who showed at-risk behaviour. This was seen as a possible solution to some of the inefficiencies that caused greater risk to victims when their history wasn't acknowledged by some agencies.

Another model suggested was to create a new agency to gather and store information such as a perpetrator's offence history, current and past Police safety orders, property orders, protection orders, and a victim's history of service use. This agency could then be contacted when new service users first disclose, thereby preventing duplication.

A few submissions supported establishing approved information sharing agreements to clarify the types of information that should be shared and in what types of situations.

#### Other suggestions

Some submissions had other suggestions, including:

- the need for greater communication and collaboration between agencies
- an assumption that full and unhindered information sharing was already occurring.

# Views on sharing information with and between courts

## Background

We sought views (section 5.2, page 40) on sharing information with and between courts. People were asked to respond to the following question:

*What changes could enhance information sharing between courts and between courts and other agencies, in family violence cases? For example:*

- *require that judges are provided with information held by Police and other justice sector agencies*
- *place a positive duty on parties to inform the criminal court of any related Family Court proceedings or orders.*

## Summary

Around 45% of submissions addressed ideas relating to information sharing between courts and with agencies. Most were generally supportive of judges receiving information from Police and other justice sector agencies and placing a positive duty on parties to share information between the criminal and family courts.

Submissions were more likely to justify their positions on the provision of information to judges than they were for the positive duty to share information between courts.

Most submissions that discussed this issue mentioned more informed and effective decision-making as a key reason. Greater reliability of decision-making when issuing property, parenting, protection, and Police safety orders was also key.

A few submissions expressed concern about the types of information that might be made public or available to prosecutors or defenders without a victim's consent and that this might put the victim at further risk.

Some submissions also mentioned that information held by health and education centres should also be made available to judges.

## What submissions said

### PROVISION OF INFORMATION HELD BY POLICE AND OTHER JUSTICE SECTOR AGENCIES TO JUDGES

Most submissions that addressed this topic favoured judges being given information held by police or other justice sector agencies. Most were supportive because of the perceived benefit of helping judges to be well-informed in their decision-making, particularly decisions about protection, property, parenting, and Police safety orders.

Wellington Rape Crisis suggested the risk assessments conducted by women's refuges should be taken into account when judges considered parenting orders and 'without notice' protection orders.

The Family Violence Death Review Committee noted that patterns of family violence offending meant that victimisation of different partners by one perpetrator was likely and the trajectory of violence often meant it would get worse. For this reason, the committee recommended judges must be aware of a defendant's Family Court and criminal history with previous partners and children.

Some submissions referred to the UK model where each multi-agency risk assessment conference (MARAC) provides local practitioners with an opportunity to share information. One purpose of such conferences was to share that information with the court in any civil or criminal proceeding.

#### INFORMATION SHARING BETWEEN COURTS

Approximately one-third of all submissions (165 in total) commented on this topic. There was widespread support for more information sharing, with most arguing judges must have all available information about a perpetrator's violent behaviour when a decision relates to the safety of victims and children. This included judges in the Family Court considering applications under the Domestic Violence Act 1995 and the Care of Children Act 2004 having access to records of family violence offences from the criminal courts. It was noted, however, that current records didn't necessarily show when offending related to family violence.

Submissions also suggested that in cases of family violence, judges in the criminal court considering sentences and bail applications should have access to relevant proceedings of the Family Court (including applications for a protection order, affidavits in support and judges' decisions and memoranda). Information sharing between civil courts would prevent the Family Court from effectively being put in the position of countermanding itself when a judge made an order in one registry without knowing that an order had already been made in the same case in another registry.

It was noted that the information must be reliable and information sharing should be done in ways that didn't compromise the safety of adult and child victims. Submissions suggested there were justifications for relaxing privacy rules while retaining the right of anyone affected by a decision of the court to challenge the basis on which it was made. One justification for relaxing the rules was because the courts weren't just dealing with adults and their rights but also with children who have equal rights but who can't express or claim them.

Submissions favoured the information sharing regulations announced in September 2015 and the pilot programme in Porirua and Christchurch that ensured judges had access to defendants' family violence histories when they made decisions about bail.

Some submissions suggested courts should be able to share information from court to court within New Zealand and between New Zealand and Australia. This wider sharing of information might also help judges determine whether an application was vexatious and should be dismissed.

#### POSITIVE DUTY ON PARTIES TO INFORM THE CRIMINAL COURT OF ANY RELATED FAMILY COURT PROCEEDINGS OR ORDERS

A clear majority of submissions on this topic supported there being a positive duty on parties to inform the court. Most submissions that addressed this question didn't justify their position but, of those that did, many thought this type of information sharing would lead to more efficient processes and fewer administrative barriers.

A few submissions indicated this positive duty would be an improvement from the current system where judges must request information from agencies and other courts as needed instead of having it available from the beginning of proceedings. A few, including Canterbury Family Violence Collaboration, also suggested a positive duty would mean the availability of this information wouldn't be reliant on administrative decisions. The possibility of extending a positive duty to counsel as well as parties was also raised.

## LEVEL OF INFORMATION SHARED AND EXTENT OF DISSEMINATION

Around 10 submissions indicated that relevant information held by health and education agencies should also be made available to judges to ensure they are fully informed of a victim's circumstance. This was seen to be a holistic loop that would ensure a victim's safety, particularly where children were involved.

A few submissions expressed concerns about privacy, most referring to making available sensitive information that the perpetrator might not want shared.

More prevalent than this, however, were concerns that shared information could put victims at further risk. Several submissions indicated information should be shared with judges but not with defence counsel who may provide offenders with details that could put the victim's safety at risk. Several submissions also said it would be a concern if this information were to be made public.

Some indicated victims should be consulted about the type of information they would be comfortable sharing, and how widely. Victims were seen to be the best authority on which type of information could lead to further violence.

## DATABASE

Around 15 submissions considered a database of an offender's history would be useful. This would allow files for perpetrators and victims to be available to judges in family and criminal courts, and appropriate agencies that may benefit from seeing a fuller picture of this victimisation. Submissions didn't give details about the accessibility of this database or to what level violence must be apparent before it would be appropriate to use.

## Other suggestions

Submissions identified other issues including:

- privacy concerns
- the potential for information sharing to increase the time taken to process a case
- concern about information being used coercively or inappropriately by judges not trained specifically in issues of gendered or family violence.

# Views on achieving a safe and competent workforce

## Background

We sought views (section 5.22, page 46) on achieving a safe and competent workforce. People were asked to respond to the following questions:

*In your view, what impact would setting minimum workforce and service delivery standards have on the quality of services? What challenges do you see in implementing minimum statutory standards? For example:*

- *establish minimum standards for workforce competence*
- *require agencies and service providers to put in place policies and systems that support the workforce to practice in a responsive, safe and competent way.*

## Summary

More than 40% of all submissions (over 200) presented views on a safe and competent workforce.

Of these, a clear majority (around 125) supported minimum standards. Over 70 of these submissions believed minimum standards should only be implemented if there was adequate resourcing. Only a few considered the notion of minimum standards too bureaucratic, though a number did mention it was important they didn't become an administrative tick-box.

Over 70 submissions discussed policies and systems that would support the workforce to practise in a responsive, safe and competent way. Over 80 submissions discussed guidelines and training materials, often commenting on the need for them to be standard across the workforce. Around 30 submissions addressed the issue of nationwide consistency and co-ordination across the sector.

## What submissions said

### VIEWS ON MINIMUM STANDARDS

Around 125 submissions supported having minimum standards provided there was adequate funding to meet them. Setting standards was seen as a way to ensure victims and perpetrators received services of a consistently high standard throughout the sector, and all workers had the same level of training. A more consistent and improved response to family violence would help a victim feel confident about seeking help, that they would be listened to, and assisted effectively.

Another reason given in support of this idea was that it would ensure the workforce was competent to appropriately respond to cultural diversity and the needs of different groups. In particular, submissions noted the need to respond to the vulnerable people or over-represented groups such as Māori, people from ethnic communities, people with disabilities or mental illness, older people, and the LGBTI community.

The Public Service Association said their members believed such standards should apply to those likely to encounter family violence in the course of their work and those working directly and intensively with victims and family violence abusers.

Around 10 submissions noted many non-governmental organisations already met minimum standards. They said providers of services under the Domestic Violence Act already have to meet exacting standards of training and are audited for compliance, and questioned the need for change.

Around 15 submissions cautioned that standards shouldn't become 'tick-boxes' that drive a compliance culture and that social services are already full of policy best practice, monitoring and paperwork.

Around 40 submissions said minimum standards could only be introduced alongside an increase in resources and funding. Otherwise, they said, the extra work had to be done outside allocated hours, often for free, leading to workers suffering burnout and stress. It was noted this extra work without adequate resource support could reduce the quality of services, and could mean workers had less time to spend on the frontline.

#### WHAT THE STANDARDS SHOULD REQUIRE

Some submissions suggested what the minimum standards should cover, such as:

- cultural competency and the ability to provide appropriate services to different population groups
- disability competency to ensure adequate services for people with disabilities
- early childhood teachers should be able to recognise and respond appropriately to all forms of suspected abuse, with a legal requirement to report suspected and or confirmed child abuse or neglect
- all professionals (for example, judges, counsel for the child, specialist report writers, mediators, counsellors and supervised access providers) working in the Family Court and specialist domestic violence criminal courts should be required to demonstrate a multidisciplinary understanding of domestic violence
- as a minimum, the three core justice agencies - Corrections, Police and the Ministry of Justice - should have a shared Code of Ethics and a Code of Conduct.

#### POLICIES AND SYSTEMS TO SUPPORT THE WORKFORCE

Around 70 submissions outlined the importance of strong policies and systems that support best practice. Examples included professional development pathways to support ongoing workforce development and connections with a professional body to ensure safe and competent practice.

The Family Violence Death Review Committee recommended considering establishing an independent statutory authority whose purpose was to oversee the family violence system.

The Public Service Association said it was important that standards are developed with input from affected staff and that they are regularly reviewed to ensure they retain relevance as understanding of quality practice and other aspects of service delivery evolve.

# Appendix 1: Discussion Document questions

These are the questions as worded in the online questionnaire and in the discussion document pages 49- 52.

## BACKGROUND INFORMATION

- 
- |          |  |
|----------|--|
| <b>1</b> | Name (optional), Surname, initial or Anonymous   |
| <b>2</b> | Email address<br>(Optional. Providing an email address will allow you to partially complete the consultation, save your answers and return. A copy of your submission will be emailed to you.) |
| <b>3</b> | Are you (optional):<br><input type="checkbox"/> An individual<br><input type="checkbox"/> Group of individuals<br><input type="checkbox"/> Organisation  |
| <b>4</b> | Tell us about yourself and your interest in family violence legislation (optional)   |
| <b>5</b> | What changes to legal tools and powers would ensure the law keeps pace with advances in understanding of family violence and how to address it?  |
- 

## PART 1: UNDERSTANDING FAMILY VIOLENCE

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- |           |   |
|-----------|---|
| <b>6</b>  | What changes could be made to address the barriers faced by each population group?  |
| <b>7</b>  | Does the current legal framework for family violence address the needs of vulnerable population groups, in particular disabled and elderly people? How could it be improved to better meet the needs of these groups?   |
| <b>8</b>  | What changes could be made to better support victims who are migrants, particularly when immigration status is a factor?  |
| <b>9</b>  | What other ideas do you suggest?  |
| <b>10</b> | What changes to the current definition of 'domestic violence' would ensure it supports understanding of family violence and improves responses? For example: <ul style="list-style-type: none"><li>• more clearly explain the concept of 'coercive control'.</li><li>• use the term 'family violence' instead of 'domestic violence'</li><li>• include the abuse of a family pet, where the abuse or threat of abuse is intended to intimidate or harass a family member.</li></ul> |
| <b>11</b> | What other ideas do you suggest?  |
| <b>12</b> | How would guiding principles affect how the Domestic Violence Act and other legislation is implemented? What principles would you suggest?  |
| <b>13</b> | How could including principles in the law reflect the nature and dynamics of family violence? For example: <ul style="list-style-type: none"><li>• include principles emphasising developments in the understanding of family violence</li><li>• include principles that guide how agencies are expected to respond to family violence, including particular population groups.</li></ul>   |
| <b>14</b> | What other ideas do you suggest?  |
- 

## PART 2: VICTIM SAFETY

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- |           |   |
|-----------|---|
| <b>15</b> | What changes would you suggest to improve access to protection orders? For example: <ul style="list-style-type: none"><li>• increase funding for applications for protection orders</li><li>• provide more opportunities for others to apply for protection orders on victims' behalf.</li></ul>                          |
| <b>16</b> | What changes could enhance the effectiveness, use and enforcement of protection orders? For example: <ul style="list-style-type: none"><li>• require Police to arrest for all breaches of protection orders, where there is sufficient evidence</li></ul>   |
| <b>17</b> | What other ideas do you suggest?  |
| <b>18</b> | What changes would enhance the effectiveness, use and enforcement of property orders? For example: <ul style="list-style-type: none"><li>• require judges to consider accommodation needs when making protection orders and to make property orders more proactively</li><li>• simplify enforcement mechanisms.</li></ul> |
-

- 19 What other ideas do you suggest?
- 20 What changes might enhance the effectiveness, use and enforcement of Police safety orders? For example:
- require Police to refer a perpetrator to services, such as short-term housing
  - empower Police or a third party to support the victim to apply for a protection order, or apply on behalf of a victim, when a Police safety order is issued (if the victim consents, or does not object).
- 21 What other ideas do you suggest?
- 22 How should risks to children and to adult victims be reflected in parenting arrangements under the Care of Children Act 2004? How could parenting orders and protection orders be better aligned? For example:
- clarify that a child's safety from all forms of violence is to be given greater weight and be a primary consideration
  - require parenting orders to be consistent with any existing protection order
  - courts could be given broader discretion to consider risk to the safety of the child and to an adult victim when deciding parenting arrangements.
- 23 What other ideas do you suggest?

**PART 3: VICTIM SAFETY**

- 24 What changes, if any, could be made to the criminal law to better respond to family violence, including the cumulative harm caused by patterns of family violence? For example:
- create a stand-alone family violence offence or class of family violence offences
  - create a new offence of psychological violence, coercive control or repeat family violence offending
  - make repeated and serious family violence offending an aggravating factor at sentencing.
- 25 What other ideas do you suggest?
- 26 What changes would ensure victim safety is considered in bail decisions and sentencing decisions? For example:
- require judges to make victim safety the paramount consideration in bail decisions in all family violence offences or for specific charges such as male assaults female
  - empower judges to place additional conditions on people on bail or remanded in custody for any family violence offence
  - improvements to bail.
- 27 What other ideas do you suggest?
- 28 What powers should criminal court judges have to vary or suspend orders usually made by the Family Court, or to make orders at different stages in proceedings? For example:
- give judges in criminal proceedings greater powers to vary protection orders on the basis of information they hear during trials
  - empower judges in criminal proceedings to refer the question of varying a protection or parenting order directly to the Family Court.
- 29 What other ideas do you suggest?
- 30 What changes would you suggest to court processes and structure to enable criminal courts to respond better to family violence?

**PART 4: AN ADDITIONAL PATHWAY TO SAFETY**

- 31 What are your views on an additional pathway for families who seek help to stop violence escalating? Is such a pathway necessary or appropriate?
- 32 What are your views on the range and type of services that might be appropriate in the circumstances?
- 33 What other ideas do you suggest?
- 34 What are your views on clarifying in law that Police take at least one of the following steps when responding to family violence reports:
- file a criminal charge (or issue a warning)
  - issue a Police safety order
  - make a referral to a funded service or services or an assessment?

**PART 5: BETTER SERVICES FOR VICTIMS, PERPETRATORS AND WHĀNAU**

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35 What changes could enhance information sharing between agencies in family violence cases? For example:

- creating a presumption of disclosing information where family violence concerns arise
  - stating that safety concerns ‘trump’ privacy concerns.
- 

36 What changes could enhance information sharing between courts and between courts and other agencies, in family violence cases? For example:

- require that judges are provided with information held by Police and other justice sector agencies
  - place a positive duty on parties to inform the criminal court of any related Family Court proceedings or orders.
- 

37 What other ideas do you suggest?

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38 In your view, what impact would setting minimum workforce and service delivery standards have on the quality of services? What challenges do you see in implementing minimum statutory standards? For example:

- establish minimum standards for workforce competence
  - require agencies and service providers to put in place policies and systems that support the workforce to practice in a responsive, safe and competent way.
- 

39 What other ideas do you suggest?

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## Appendix 2: List of organisations or groups that made submissions

This is the list of 159 organisations or groups that made submissions categorised by main perspective. Two further organisations made submissions but didn't provide the name of their organisation. Some organisations are umbrella groups and represent the views of several agencies, organisations or networks – these submissions are indicated with an asterisk.

### **Animal welfare**

National Animal Welfare Advisory Committee  
New Zealand Veterinary Association  
The Pro Bono Panel of Prosecutors for the SPCA Auckland

### **Children**

Birthright New Zealand Inc  
Barnardos  
Children's Commissioner  
Every Child Counts  
Child Poverty Action Group (Auckland)  
Royal New Zealand Plunket Society  
Save the Children  
UNICEF NZ  
Charity working with foster children

### **Churches/Religious/Spiritual**

Public Issues Methodist Church  
Presbyterian Church of Aotearoa New Zealand  
Sorooptimist International  
The Salvation Army - Social Policy and Parliamentary Unit

### **Organisations for people with disabilities**

Joint submission from IHC National Office, Disabled Persons Assembly and CCS Disability Action  
Ennoble  
Disabled Women's Forum  
People First New Zealand Nga Tangata Tuatahi

### **Ethnic/Migrant groups**

Shakti Community Council Inc  
Shama (Hamilton Ethnic Women's Centre)  
New Zealand Federation of Multicultural Councils  
Sahaayta - delivery arm of South Asian Trust Incorporated  
Joint submission from the The Umma Trust & the May Rd Mother's Group

### **Family Violence Research/overview**

The Impact Collective

Family Violence Clearinghouse

Family Violence Death Review Committee

### **Family Violence Agencies /Networks**

AMOTA (Ahuru Mowai O Te Awakairangi), Network for a violence-free Hutt Valley\*

Auckland Family Violence Programme Board

Aviva

Canterbury Family Violence Collaboration\*

Families without Violence Network – Ashburton\*

HALT (Horowhenua Abuse Liaison Team)

Hauraki Family Violence Intervention Network\*

Hestia and Abuse Prevention Services

Joint submission from STOP, WellStop and SAFE Network Incorporated (collectively known as the Harmful Sexual Behaviour sector)

Joint submission from Christchurch organisations: AVIVA, Barnardos and Family Help Trust

Kapiti Living without Violence

Maniapoto Family Violence Intervention Network\*

Marlborough Violence Intervention Project\*

National Collective of Women's Refuges Inc (NCIWR)\*

National Family Violence Network Coordinators\*

Safer Aotearoa Family Violence Prevention Network\*

Safer North Community Trust\*

Say No!

Shine - Safer Homes in New Zealand Everyday Trust

Stopping Violence Dunedin Inc

Stopping Violence Services (Christchurch, Ashburton & Timaru)

Stopping Violence Services Wairarapa

Taranaki Safe Families Trust

Tauranga Women's Refuge

Te Kupenga Whakaoti Mahi Patunga - the National Network of Stopping Violence

Te Rito Rodney Family Violence Prevention Project\*

Te Rito Wellington Family Violence Network\*

Te Whariki Manawahine o Hauraki (Hauraki Women's Refuge)

The Auckland Coalition for the Safety of Women and Children\*

The Dunedin Collaboration Against Family Violence

The HEART Movement – Health Relationships in Tamaki

Toah-NNEST (Te Ohaakii A Hine National Network Ending Sexual Violence Together)

Victim Support

Violence Free Network Wairarapa

Waikato Women's Refuge

WAVES (Waitakere Anti-Violence Essential Services)

Wellington Rape Crisis

Wellington Women's Refuge

Whanganui Women's Refuge

Whanganui Women's Refuge

Whare Manaaki's - Porirua Women's Refuge

Women's Refuge Whanganui

**Government agencies/Local bodies**

Human Rights Commission

Hutt City Council

Local Boards of Auckland Council

Office of the Privacy Commissioner

Superu

**Health (including addiction and mental health)**

Alcohol Action, Hawkes Bay

Alcohol Healthwatch

Family Planning

Injury Prevention Aotearoa

New Zealand Association of Counsellors

New Zealand Association of Psychotherapists

New Zealand Council of Midwives

New Zealand Nurses Organisation

New Zealand Psychological Society

Public Health Association, Wellington Branch

Royal Australasian College of Surgeons

The New Zealand (Society) of Paediatric Surgeons

The Raglan House

**Human Rights/Justice**

Human Rights Foundation New Zealand

Women's International League for Peace and Freedom

**Legal /advisory**

Auckland District Law Society – Criminal Law and Family Law Subcommittees

Community Law Centres o Aotearoa

Community Law Wellington and Hutt Valley

Cuba Family Law

Citizens Advice Bureau (Wellington)

New Zealand Law Society

**Māori organisations**

Te Rūnanga o Ngāi Tahu

Te Ao Huri of Alexandra

Te Kahui Mana Ririki Trust

Te Pūtahitanga o Te Waipounamu

Te Taiwhenua o Heretaunga

Te Wana Trust

Tu Tama Wahine o Taranaki

Whakatōhea Iwi Social & Health Services

Te Whare Oranga Wairua Inc, Māori Women's Refuge

**Judiciary**

Judges of the District Courts, the Family Court and the Youth Court

**Men's organisations**

Canterbury Men's Centre

Male Survivors of Sexual Abuse Trust Aotearoa New Zealand

The Male Room Incorporated

**Older people's organisations**

Age Concern New Zealand

Grey Power Federation

**Pasifika organisations**

Pacific Women's Indigenous Network)(Pacificwin) - a) via National Council of Women of New Zealand form b) with Vagahau Nuie Trust

**Political party/politicians**

The Green Party Women's Network

The Māori Party

Labour Party MPs - schools pokespeople across Justice, Social Development, Children and Women's Affairs

The Commonwealth Women Parliamentarians

**Trade unions**

New Zealand Council of Trade Unions Women's Council

Public Service Association

**Justice/Sentencing**

The Diana Unwin Chair in Restorative Justice at Victoria University's School of Government

Restorative Justice Otago

Sensible Sentencing Trust

**Social Change**

Global Cooperative Forum, Christchurch

**Social services**

Alexandra Council of Social Services

Anglican Family Care, Dunedin

Aotearoa New Zealand Association of Social Workers

Family Focus Rotorua

Family Focus Rotorua

Helensville Women & Family Centre

New Zealand Council of Christian Social Services - (NZCCSS)

Presbyterian Support NZ

Presbyterian Support Upper South Island

Tokoroa Council of Social Services

Southland Interagency Forum Inc

**Women's organisations**

Business and Professional Women, National Federation and Tamaki

National Council of Women New Zealand

Palmerston North Women's Health Collective

Rural Women New Zealand

Silent Injustice Coordinated Group

Wellington Homeless Women's Trust

WISE (Women Information Support Education)

Women in Secure Care Environments (WISE)

Women's Health Action

Zonta Clubs of Christchurch South, Dunedin, Hatea-Whangarei, Mana, Mangawhai & Rotorua

**Youth**

Adventure Development

JustSpeak

Youth Impact

## Appendix 3: List of individuals who made submissions

This is a list of the 222 submissions from individuals or groups of individuals who provided a surname, who didn't request confidentiality and whose submission didn't contain sensitive information about themselves or other people.

An additional 111 submissions were received from individuals didn't provide a surname, contain identifying information, and/or wished to remain anonymous and/or included sensitive information about themselves or other people.

Aberhart, R	Cheong, S
Adams, J	Clark, E
Andrew, A	Coates, R
Andrew, A	Cole, P
Ashby, B	Coleman, J
Bacon, M	Cooper, N
Baldwin, R	Cowdell, S
Berkahn, J	Crasta, M
Berwick, P	Crosby, D
Binsted, C	Daniels
Bird, C	Davies A
Blackman T	Davies, R
Bonham, K	Davis, P
Boshier, P	Delamere, R
Bosma, J	Diamon, B
Bradley, J	Dickon, S
Brady-Clark, M	Dixon G
Brash, E	Dolan, M
Brooks, P	Dougherty, S
Brownlie, M	Duncan, A
Bryant, B	Dunn, J
Burrows, W	Dyall, L
Butler, L	Eddy. D
Cagney, M & McMaster, K	Elizabeth, Dr V
Callesen F	Ellett, M
Cameron, P	Fearnley, C
Campbell, S	Fergusson, I
Capamagian, M	Fitness, I
Carpenter M	Fogliani, S
Carter, D	Fowler, A
Cassidy	Webster, F
Catchpole	Fulcher, M
Chapman, L	Gambitsis, L
Chenery, M	Gaskin, M

Gatsby, E  
Gaw, E  
Gordon, D  
Grigg, M  
Gulliver, P  
Haddon, S  
Hager, D  
Halcrow G  
Hamblett, A  
Hamilton Murray, G  
Harris, T  
Harris, T  
Harrison, N  
Harvey, K  
Hawkesby-Browne, M  
Hay, S  
Hayward, L  
Todd, H  
Hill, A  
Hillary, G  
Hogg, G  
Holland, R  
Holsted, E  
Holt, H  
Hopa, C  
Hunt, R  
Hutchison, K  
Jeffs, J  
Johnson, D  
Jones, G  
Kelman, C  
Kern, A  
Killeen, A  
Kim, S  
King, A  
Kingi, J  
Kirkwood, K  
Knutson, R  
Larimer, B  
Laurence, W  
Laven, H  
Lawrence, L  
Legg, E  
Legg, J  
Leigh, M  
Leighton, B  
Li, B  
Lorier, K  
Lowe, A

Lowrie, P  
Lowry, W  
Luther  
Macdonald, A  
MacGregor, R  
MacLean, N  
MacLennan, C  
Maddiggan-Ould, L  
Mahoney, T  
Marshall, B  
Marshall, K  
Marshall, T  
Martin, D  
McDonald, E  
McIntyre, B  
McKay, L  
McKendry  
McMillan, K  
McMillan, M  
McNeill, A  
McOscar, P  
Michel, J  
Mielenz, B  
Milbank, G  
Milne, S  
Monteith, D  
Morrison, C  
Muir, R  
Noble, R  
Noone, J  
Odlum, S  
O'Neil, R  
Ong  
Osborne  
Palmer-Oldcorn, A  
Panoho, J  
Parlane, J  
Parry, B  
Pawson, J  
Percy, B  
Petzold  
Pollard, M  
Pollard, P  
Porter, T  
Pugh, H  
Purdis, R  
Puti, C  
Radovanovich, N  
Reardon, K

Recordon, P  
Reed, B  
Rennie, M  
Revell, W  
Rhodes, D  
Roberts, H  
Robertson, J  
Rogers, A  
Rowland, G  
Salthouse, R  
Scott, A  
Scott, C  
Siegel, D  
Signer, U  
Singleton-Ryan, K  
Skinner, J  
Smith, C  
Sole, J  
Springer, C  
Stace, Dr H  
Steedman, M  
Stephens, P  
Stephenson, J  
Stone, R  
Strother, C  
Tait, R  
Tamaira, K  
Tankard, K  
Tannock, R  
Taylor, M  
Thomson, J  
Todd, A  
Tomaszyk, K  
Tonks, M  
Tooley, W  
Truman, C, Steele, E & Dalenburg, S  
Turner, B  
Turner, D  
Vogel, C  
von Dadelszen, P  
Ward, D  
Waters, M  
Watkins, P  
Watts, P  
White, D  
Wilkinson, J  
Willerton, M  
Wilson, R  
Wilson, S  
Wootton, L & H  
Youmans, S  
Zhao, B  
Zhao, W  
Ziegler, C  
Zindel, S  
Zohrab, P

