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FREE LEGAL ADVICE FOR WOMEN

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SUBMISSION OF THE TOP END WOMEN'S LEGAL SERVICE – DRAFT NATIONAL PLAN TO END VIOLENCE AGAINST WOMEN AND CHILDREN 2022-2032

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Introduction

The Top End Women's Legal Service (**TEWLS**) welcomes this opportunity to provide a submission to the draft National Plan to End Violence against Women and Children (the draft National Plan).

Our submission will be focused on our experience of and expertise in assisting women across the Top End of the Northern Territory (**NT**), noting that in the last financial year, 84% of our clients presented with domestic and family violence indicators. TEWLS' client group includes Aboriginal and Torres Strait Islander women, women from culturally and linguistically diverse backgrounds, women experiencing homeless and/or financial disadvantage, women living with a disability, and women at risk of and/or experiencing domestic, family and sexual violence (**DFSV**).

In providing our submission, we note that the core themes of our comments and associated recommendations are as follows:

- The misidentification of primary perpetrators of DFSV
- Cycles of criminalisation for DFSV victim-survivors and their children
- Systems abuse
- The critical need for needs-based funding of per capita funding (the current system)

About TEWLS

TEWLS is a specialist women's legal service focused on the advancement of women's rights. We provide high quality, culturally safe, holistic and trauma-informed services to vulnerable women in the Greater Darwin region of the Northern Territory, working within the Top End community to provide free legal assistance (advice, casework and representation, information, communication legal education, and advocacy) in areas of civil and family law.

TEWLS' service area and targeted outreach services include Darwin, Palmerston, all four women's shelters and six Indigenous communities in the Greater Darwin region, at Adult Migrant English Programs, and the Darwin Correctional Centre. We provide advice and representation services for civil and family law matters, with the most frequently requested areas of assistance being family law, DFSV, compensation for victims of crime, restraining orders (domestic violence orders [DVOs] and personal violence restraining orders), housing and tenancy, consumer law, credit and debt, fines, discrimination, employment law, and complaints.

With women continuing to experience hardships because of their gender and associated vulnerabilities, the need for specialist women's legal services remains as strongly as at the time of our creation, more than 25 years ago. In the Greater Darwin region, TEWLS stands as the sole service providing holistic legal services to women in the areas of civil and family law, where clients frequently attend upon our service to meet with a practitioner with a high-level understanding of DFSV, and the trauma often associated with same.

Response to the draft National Plan

In addition to our comments provided within the DSS online survey, TEWLS provides the following submission –

Q11 - The draft National Plan includes a clear explanation of the prevalence, drivers, and different forms of gender-based violence in Australia.

Survey response:

While TEWLS mostly agrees with the Plan's explanation of gender-based violence, critical gaps remain. First, it is crucial to contextualise that all DFSV relationships exist in an overarching context of coercive control. Second, the Plan fails to explore the issue of police misidentification of women in long-term DFSV relationships as the primary perpetrator of DFSV, leading to criminalisation of victim-survivors and police mistrust. Third, analysing the life cycle of violence must acknowledge the lifetime health and financial impacts of DFSV.

Extended response:

TEWLS would, for the most part, agree that the draft National Plan includes a clear explanation of gender-based violence. Nonetheless, critical gaps remain, where the following points would enhance the explanation to more accurately depict what gender-based violence looks like for our clients.

First, it is crucial that relationships characterised by domestic, family and sexual violence ("DFSV") be understood as occurring in an all-consuming context of coercive control; in our experience, a focus on singular 'incidents' is often unable to capture the reality of the lived experiences of victim-survivors of DFSV.

We recommend that the coercive control definition on page 11 reference that coercive control is the overarching context in which DFSV occurs. Similarly, the definition on page 11 of sexual violence should reference that consent to sexual activity is generally fraught in a DFSV relationship. While one party may on a particular occasion verbally or non-verbally assent to sexual intercourse, the reality is that this consent is not freely given if it is given to avoid an escalation of aggression, or because they fear abusive ramifications later if they do not assent.

Second, an outstanding issue with the explanation of gender-based violence in the draft National Plan is that it does not explore the problem of police misidentification of a woman as the primary perpetrator of violence in a relationship, where that woman has, in reality, experienced long-term violence at the hands of the alleged male victim. Women's Legal Service Victoria's policy paper on police misidentification estimated that at least 1 in 10 women named as respondents in police applications for family violence intervention orders (FVIO) were misidentified as the primary perpetrator.¹ Some victim-survivors use resistive

¹ Women's Legal Service Victoria, Policy Paper 1 "Officer she's psychotic and I need protection": Police misidentification of the 'primary aggressor' in family violence incidents in Victoria, July 2018.

violence to challenge a long-term use of violence by a male partner, have complex trauma and present to police distinct from the 'ideal' and 'deserving' victim myth of a genuine, polite and credible victim worth rescuing. Police misidentification has significant adverse consequences for victim-survivors including criminal charges, separation from children, risk of homelessness, loss of visa status, and implications in family law and child protection jurisdictions. On the point of criminalisation of victim-survivors, it should also be noted that some may offend with the intention of being incarcerated so that they may be safe from a perpetrator of family violence. Maria's story below highlights the problem of misidentification of primary perpetrators for victim-survivors.

Maria's story - misidentification and "safety" via incarceration

Maria* is a young, Aboriginal woman who was in an on/off relationship with her partner, Michael*, over a period of five (5) years. During their relationship, Maria was physically, sexually and psychologically abused by Michael, and sought to escape the relationship on multiple occasions. Maria instructs that during the relationship, she sought assistance from NT Police, but that on multiple occasions, officers would "brush off" her disclosures, advising her that the issue was a "family matter" and nil assistance was able to be required.

During one violent incident, Maria instructs that she retaliated against Michael, instructing that the "build up" of abuse led her to "fight back". Immediately following this incident, Michael called NT Police, who attended and arrested Maria. Maria instructs that she was incarcerated on remand for an extended period while waiting for the Court to hear her story; and after her story was told, the charges against Maria were dropped, with the Court making note of the misidentification of Maria as the primary perpetrator of violence.

Notwithstanding Maria's release, Maria instructs that she later intentionally offended so that she could return to the Darwin Correctional Centre, instructing that her period of incarceration was the safest she had felt in a "long time". Noting Maria's experience of DSFV, TEWLS continues to advocate for the appointment of a specialist DFSV counsellor at the Correctional Centre, such that women like Maria can access holistic support and assistance during a term of incarceration.

Over the periods of Maria's incarceration, TEWLS has holistically assisted Maria in respect of family and civil law matters, including family law (parenting and divorce), victims of crime compensation, and an application for a domestic violence order (DVO).

* Not their real names

In light of the above, we recommend that the draft National Plan explore and create action items in respect of Police's misidentification of primary perpetrators of DFSV, including training for Police, and funding for front-line services assisting victim-survivors necessitated by the ongoing issue.

Third, we give three comments regarding the analysis on violence affecting women across all life stages on pages 12-13.

1. First, we consider it crucial that any national strategy to address DFSV, particularly regarding 'recovery', must consider the lifelong chronic health impacts of DFSV that persist even after a DFSV relationship may have ended. These can include chronic

physical and mental health conditions. Agatha's story below highlights the long-term health challenges facing victim-survivors.

2. Second, we also note the long-term financial consequences of DFSV, where victim-survivors may have been prevented from participating in paid employment and superannuation accumulation and/or have experienced financial abuse, or in escaping a violent relationship they may have had to leave everything behind. Perpetrators may exert dynamics of power, control and fear to abuse the family law property settlement process such that victim-survivors receive far less than what is just and equitable.
3. Third, while we acknowledge this is not the intention of the report, we note that the section on risk factors by age unintentionally suggests that older women are not particularly at risk of all forms of gender-based violence, including intimate partner violence and sexual harassment.

Agatha's story - DFSV resulting in acquisition of chronic psychological injury

Agatha* is a CALD woman in her mid-40s. She speaks English as a second language and accesses services, including TEWLS, with the assistance of an interpreter. Agatha was in a relationship with her ex-husband, Tyler*, for over 20 years. They have five (5) children of their relationship, with Agatha the primary carer for the youngest three (3) children under 18 years old.

During her relationship with Tyler, Agatha was subjected to high-level DFSV, resulting in complex trauma. In assisting Agatha with an application for victims of crime compensation, a psychological assessment found that Agatha had suffered a "serious and chronic psychological injury" as a direct and sole result of the violence perpetrated by Tyler. Agatha's injury has had and will continue to have significant impacts on her life, including in respect of her relationships with her children, and capacity to hold employment.

In seeking assistance from TEWLS, Agatha was able to receive culturally safe and trauma-informed legal and non-legal support and representation, including Court proceedings in respect of parenting and divorce, an application for victims of crime compensation, warm referrals for psychological/counselling assistance.

* Not their real names

Additionally, we agree that fears of not being believed is a major barrier to reporting of sexual violence. We would add that in addition to this fear, many victim-survivors may not report because the trauma of sexual violence may be compounded by the long timeline of the justice process and the loss of agency associated with this process. The prospect of going through a police report, awaiting prosecutorial decisions as to whether the complaint will be prosecuted, trials, cross-examination, and a narrow chance of a conviction, deters many victim-survivors as the reporting process may not bring closure for multiple years. Victim-survivors may prefer to move forward, especially given the trauma of reporting may be too difficult given the other demands of life such as managing their mental and physical health, employment, childcare responsibilities etc.

Finally, we wish to bring to your attention the statistic on page 12 reporting that 9 in 10 women with intellectual disability report experiencing sexual assault. The ABS reference provided is the 12-month prevalence, and this statistic does not appear. Rather, Table 3 of the ABS webpage reports that women with an intellectual/psychological disability experienced violence by any perpetrator (physical and/or sexual) at a rate of 15% in a 12-month period. We note that the 9 in 10 statistic reported in the draft National Plan could be the life-time incidence of sexual assault among women with intellectual disability, however we could not see this in the ABS webpage. It may be possible that this statistic is mis-stated, or alternatively that the wrong reference was provided.

Q12 - The draft National Plan meaningfully reflects issues highlighted through stakeholder consultations and the National Summit on Women's Safety, including the experiences of victim-survivors.

Survey response:

The Plan contains insufficient focus on the safety of women and children. The Plan must address the WLSA Safety First in Family Law recommendations, noting that separation is the most dangerous period for women and children for homicide. Additionally, there is no recognition of the systems abuse that pervades the family law system. We reiterate that the Plan fails to address the links between DFSV and misidentification of primary perpetrators, the criminalisation of victim-survivors and intergenerational cycles of criminalisation.

Extended response:

We submit that the draft National Plan contains an insufficient focus on the safety of women and children in its analysis. We emphasise that any draft National Plan should address the WLSA Safety First in Family Law recommendations. Separation is the most dangerous period for women and children with regards to risk of homicide, and so a safety strategy must adequately address deficiencies in the family law system. The five core recommendations of Safety First in Family Law are to:

1. Strengthen the family violence response in the family law system
2. Provide effective legal help for the most disadvantaged
3. Ensure family law professionals have real understanding of family violence
4. Increase access to safe dispute resolution models
5. Overcome the gaps between the family law, family violence and child protection systems

Secondly, there is insufficient discussion of systems abuse of the family law system. System abuse occurs when a perpetrator exploits legal systems to reassert power and control over victim-survivors. Our clients frequently experience litigation tactics that aim to 'gain an advantage over or to harass, intimidate, discredit or otherwise control' them. The National Plan must address the tactics outlined in the National Domestic and Family Violence Bench Book information on systems abuse. Tina's story below highlights the impact that systems abuse by perpetrators has on victim-survivors engaging with the law.

Tina's story - systems abuse via the Family law system

Tina* is the mother of two children; Silvia*, a teenage daughter from a previous relationship, and Georgia*, an eight-year old daughter of her relationship with Greg*.

Two years before engaging TEWLS, Greg was charged and convicted in respect of sexual assault offences against Silvia; this abuse followed a period of financially-focused DFSV, including coercive control, in his relationship with Tina. Following his term of imprisonment, Greg accessed a free legal service provider to commence Family Court proceedings without notice and/or alternative dispute resolution processes seeking time with Georgia.

With significant trauma held by both Tina and Silvia following the incident the subject of Greg's incarceration, as well as significant risk to Georgia, TEWLS assisted Tina to seek orders at the matter's first mention for the appointment of an Independent Children's Lawyer (ICL) and Family Report; and following the completion of the Family Report, TEWLS and the ICL together proposed Consent Orders to Greg for no time or communication with Georgia.

Following the conclusion of the proceedings, the ICL, of their own accord, proceeded to make a complaint to the legal service provider who assisted Greg, alleging that the commencement and carriage of the proceedings were tantamount to systems abuse by Greg.

* Not their real names

We reiterate that the draft National Plan fails to address the nexus between the increasing rates of female imprisonment and DFSV. The misidentification of primary perpetrators where resistive violence has been used by victim-survivors and criminalisation of victim-survivors also have significant implications for cycles of criminalisation for children growing up around DFSV.

Finally, we note and strongly recommend that the absence of focus on the economic and health dimensions of DFSV be addressed in the final National Plan. These dimensions include the lifelong chronic health conditions victim-survivors experience from DFSV, as well as the lifelong financial implications.

We would additionally highlight that economic gender gaps are crucial parts of the story on DFSV. A range of government policies impact gendered labour patterns and contribute to significant gender wage gaps in Australia, such as high effective marginal tax rates (EMTRs) for women with children in childcare and the high cost of childcare. A holistic view of violence against women and children must consider the economic factors that reduce women's economic independence.

Q13 - The four Foundation Principles (gender equality, the diverse lived-experiences of victim-survivors are informing policies and solutions, Closing the Gap, and intersectionality) appropriately underpin the National Pillars and actions within the National Plan.

Survey response:

The first Foundation Principle must be the safety of women and children. We strongly agree with the inclusion of gender equality, with the caveat that this be gender "equity". The diverse lived experiences of women must address social entrapment, misidentification of primary perpetrators (criminalisation of victim-survivors), with a reference to groups disproportionately affected by same. The Closing the Gap Foundation Principle needs to adequately address the ongoing impacts of colonisation as a driver of violence against First Nations women.

Extended response:

We submit that the first Foundation Principle must be the safety of women and children; in doing so, this would reflect that it must be the core principle in all policy making, resourcing and law reform decision making.

We strongly agree with the inclusion of gender equality as one of the four Foundation Principles, with the caveat that this be changed from gender equality to gender equity to capture those policies underpinned by formal equality (strictly neutral equality) are unlikely to achieve the kind of equal outcomes envisioned by the draft National Plan. Rather, gender policies should focus on substantive equality, a principle focused on equitable outcomes and opportunities.

The diverse lived experiences of women must address social entrapment, misidentification of primary perpetrators and the criminalisation of victim-survivors, with a reference to the groups disproportionately affected by these issues including First Nations women, CALD women and women with a disability.

We submit that the Closing the Gap Foundation Principle must more adequately address the ongoing impacts of colonisation as a driver of violence against First Nations women. We strongly recommend greater alignment with the focus on how colonisation impacts on both Aboriginal and Torres Strait Islander communities and non-indigenous Australians in the Changing the Picture report produced by Our Watch.

Finally, we welcome a focus on intersectionality in the draft National Plan; however, TEWLS is concerned that the principle of intersectionality, being that all analysis of gendered dynamics should consider intersections of disadvantage whether related to race, migrancy status, language status, disability etc., may not be served if this analysis is confined to a particular chapter, with risk that this analysis could become tokenistic. Rather, it is our submission that the entirety of the National Plan should have an intersectional focus.

Q14 - The four National Pillars (prevention, early intervention, response and recovery) in the draft National Plan provide a holistic approach to identifying and responding to gender-based violence.

Survey response:

We agree that the National Pillars provide strong targets across all stages of DFSV. It can be common to focus on prevention and early intervention without acknowledging that DFSV strategy cannot have instant success; corresponding importance to fund back-end response and recovery processes. We recommend that separation be added as a point when violence can escalate. Funding for specialist women's legal services is crucial; providing holistic and socio-legal approach to address elevated range of legal and social problems experienced in DFSV.

Extended response:

We agree that the National Pillars provide strong targets across all stages of DFSV. It can be common to focus on prevention and early intervention, without acknowledging that a strategy to respond to DFSV will never have instant results; and consequently, the corresponding importance to adequately fund back-end response and recovery processes to capture current matters and assist to heal trauma from back to front.

We note that supporting the population to identify DFSV inherently results in increased numbers of people seeking assistance, and the greater need for funding of back-end support. On a comparison of data between the 2019/20 and 2020/21 financial years, TEWLS recorded significant increases in requests for assistance, with a 17% increase in the number of legal advices provided by the service, a 16% increase in new clients attending the service, and a 37.5% increase in ongoing services (including court representation). Notably, TEWLS also recorded a 9% increase in clients presenting with DFSV indicators, with 84% of clients in 2020/21 presenting with same.

We recommend that at page 34's reference to supporting women at points in their life where violence can escalate, there be an additional focus on separation as a point where there is increased risk of DFSV and homicide and as such, a socio-legal response to separation involving family counselling, specialist women's legal services and financial counselling, is crucial to keeping women and children safe.

We submit that appropriate resourcing of specialist women's legal assistance is crucial for a holistic strategy on response and recovery. Specialist women's legal services adopt socio-legal approaches to assisting women experiencing violence, connecting them with social support in addition to legal assistance. Funding for response services is critical to close the nexus of DFSV, as well as to mitigating causative impacts on related justice and social issues including care and protection, youth justice and the increasing criminalisation and incarceration of female victims of domestic and family violence.

In addition, women's legal services are holistic services, assisting clients with the full spectrum of legal issues presenting rather than only assistance with DVOs for example. Critically, we note the findings of the first quantitative assessment on legal and related problems coinciding with domestic and family violence, where domestic and family violence victimisation was found to be linked to elevated experience of a broad range of legal problems, including substantial and multiple legal problems. The mean number of legal problems of all types, including domestic and family violence victimisation, was 20.0 for domestic and family violence respondents compared to only 2.4 for others.

At TEWLS, it is very common for our solicitors to assist clients with multiple legal issues despite clients initially presenting for just one matter, as Casey's story below highlights.

Casey's story - initial "soft" approach leads to multiple complex legal matters

Casey* is an Aboriginal woman residing in a community in the Greater Darwin region. She speaks English as a third language and has a distrust of service providers as a result of the NT Intervention.

After servicing Casey's community on a consistent and regular basis, Casey approached TEWLS in respect of a superannuation matter, asking TEWLS to simply assist to locate her superannuation. The initial approach led to the establishment of a relationship (trust) between Casey and the TEWLS solicitor, with result that Casey later disclosed past and present experiences of DFSV. Over the next year, TEWLS would assist Casey with six (6) separate matters, spanning across civil and family law systems.

In an approach commonly used by First Nations clients, Casey's initial approach to TEWLS was one of "sounding out" the service; an approach to establish whether the service could be trusted to assist with the complex legal matters "hiding" beneath the service. After assisting Casey, TEWLS continues to receive family and community referrals, with the preference of clients attending to work with one practitioner in an ongoing capacity, establishing trust and cultural safety.

* Not her real name

Q15 - The four National Pillars (prevention, early intervention, response and recovery) in the draft National Plan reflect the family, domestic and sexual violence service system.

Survey response:

Four main concerns regarding the service system. First, concern in respect of the dilution of specialisation across the service system. Second, we reiterate concerns that safety in family law is an afterthought (failure to address the Safety First in Family Law recommendations). Third, DFSV funding; must shift from per-capita funding towards needs-based funding, with the NT service system particularly disadvantaged by this funding arrangement (the NT has 3.5x DFSV offenders per capita than second highest, NSW). Fourth, sector sustainability.

Extended response:

TEWLS holds four main concerns in respect of the DFSV service system reflected by the draft National Plan's National Pillars.

First, we hold particular concern in respect of the dilution of specialisation in the service sector strategy as a recent trend, diverting resources from specialist and holistic service provisions by specialist women's legal services, towards generalist services (i.e. Legal Aid Commissions). We agree with the acknowledgment of the need for holistic services including the description of a comprehensive and coordinated crisis response service (page 35). We would strongly suggest the National Plan go further in naming specific services, including women's shelters and specialist women's legal services, where both or either service have in-house counselling, including financial and trauma counselling. Additionally, we bring to attention that while the draft National Plan acknowledges an increase in service demand in the medium term as a result of increased early intervention, there is no reference to increased funding or resourcing of specialist support.

Second, we express concern that safety issues may be expressed as an afterthought, particularly in the family law system. We note that there are nil commitments or reference to WLSA's *Safety First in Family Law* advocacy and recommendations described in response to question 12.

Crucially, we wish to highlight the March 2021 recommendation by the House of Representatives Standing Committee on Social Policy and Legal Affairs Inquiry into Family, Domestic and Sexual Violence that Australian Government funding provided to state and territory governments be allocated using a needs-based funding rather than a per-capita allocation as is currently the funding arrangement. The combination of per-capita DFSV funding and the extremely high prevalence of DFSV in the Northern Territory results in seriously and chronically underfunded and overstretched DFSV services in the NT.

There is a DFSV crisis in the NT, with family and domestic violence offenders accounting for 34% of all offenders in the NT at a rate of 1,459 offenders/100,000 persons, per the most recent ABS statistics, the highest rate in Australia. Notably, the next closest jurisdiction, New South Wales, recorded a rate of 417 offenders/100,000 persons, and the national offender rate was 358 offenders/100,000 persons. For women in the NT, the crisis deepens – in the same reporting period, 82% of family and domestic violence offenders in the NT were male, with a rate of 2,347 male offenders/100,000 males. Compounding these statistics are rates of sexual assault in the NT; in 2020, 90% of victims of sexual assault in the NT were female. On a local level, the NT Crime Statistics detail significant increases in domestic violence assaults over the past 12 months, with a Territory-wide increase of 15.49% between 2020 and 2021. Aboriginal and Torres Strait Islander (First Nation) women continue to be disproportionately impacted by rates of DFSV, with the AIHW reporting that 28% of persons admitted to hospital

due to domestic and family violence identified as Aboriginal and Torres Strait Islander, with women accounting for 70% of those hospitalised.

TEWLS acknowledges that without increasing overall national funding for DFSV services in Australia, a shift from per capita service funding to needs-based funding would result in some states and territories receiving cuts in DFSV funding, which would be unacceptable given community expectations. TEWLS advocates that addressing underfunding of DFSV services in the NT requires an increase in overall national DFSV funding, such that it would be guaranteed that no state or territory would be worse off in DFSV funding as a result of a shift from per capita to needs-based funding arrangements.

Finally, TEWLS recommends that the sustainability of front-line workers in the DFSV service sector must be considered as part of any long term service provision strategy.

Q16 - The draft National Plan reflects the needs and experiences of women and children.

Survey response:

Safety, and the WLSA Safety First in Family Law recommendations, must be a greater focus. There is little discussion of systems abuse, social entrapment and the nexus between DFSV and cycles of criminalisation for women and children. The Plan fails to address the administrative burden of navigating different systems; specialist women's legal services provide holistic legal assistance, reducing trauma. The Plan must acknowledge the need to support and respect the autonomy of victim-survivors who don't wish to leave DFSV relationships.

Extended response:

In TEWLS' submission, safety, and the WLSA *Safety First in Family Law* recommendations, must be a greater focus. There is little discussion of systems abuse, social entrapment and the nexus between DFSV and cycles of criminalisation for women and children, including through misidentification of the primary perpetrator. Additionally, the draft Plan fails to address the administrative burden of navigating different systems; specialist women's legal services provide holistic legal assistance, reducing the trauma of frequently re-telling a traumatic story. Finally, the Plan must acknowledge the need to support and respect the autonomy of victim-survivors who don't wish to leave DFSV relationships.

Q17 - The draft National Plan reflects the needs and experiences of diverse communities and individuals.

Survey response:

- TEWLS notes the calls for a separate National Plan on DFSV for Aboriginal and Torres Strait Islander women by Change the Record and Djirra, supported by other ACOs, rather than only a separate Action Plan. We reiterate that a greater focus on the impacts of colonisation and resulting intergenerational trauma is essential for exploring the drivers of DFSV in Aboriginal and Torres Strait Islander communities. The Closing the Gap Foundation Principle needs to more adequately address the ongoing impacts of colonisation as a driver of violence against First Nations women as in the Changing the Picture report produced by Our Watch. Finally, we note that the Plan refers to Aboriginal and Torres Strait Islander women being less likely to report violence because of past government practices, however, it is essential to note that this mistrust is also due to current government practices and experiences with police contemporaneously.
- The Plan contains only cursory and high-level information on migrant and refugee women. We recommend that the Plan address that many support services for women experiencing DFSV require residency, such as Centrelink access and many women's shelters. In the NT, TEWLS is the service delivering the Temporary Visa Holders Experiencing Violence Pilot, an innovative and critically-received (positive) pilot Commonwealth government program funding free legal help with migration and other civil matters for migrant and refugee women experiencing DFSV. We do note that at the time of this submission, the pilot is only 12 months long, with funding technically expiring on 1 June 2022. Relationship building with local migrant and refugee communities to develop trust to seek help is a long-term project, with result that we strongly advocate for and would welcome long-term secure funding to properly assist this vulnerable community.
- Highlight the circular relationship between disability and DFSV: women with a disability are more likely to experience DFSV, and women who experience DFSV are at a high risk of acquiring a disability as a result of same.
- Recommend greater focus on intergenerational cycles of violence experienced by children who grow up in DFSV families. Also, strong relationship between misidentification of primary perpetrators, the removal of children into the child protection system, and later offending by children as a result of the trauma from DFSV exposure.
- There is no focus or discussions in respect of issues specific to LGBTQIA+ people, including drivers of violence.
- Inclusion of brotherboys and sistergirls as tokenistic, lacking substance.
- Plan fails to include "very remote" communities in its strategy.
- Older women must be included at DFSV forefront.

Extended response:

TEWLS submits that while the draft National Plan highlights the higher incidence of DFSV for these groups, the Plan doesn't elaborate at all on the complexity of the needs and experiences of these communities.

Aboriginal and Torres Strait Islander women: Regarding the experiences of DFSV in Aboriginal and Torres Strait Islander communities, TEWLS wishes to bring to attention calls for a separate National Plan on DFSV for Aboriginal and Torres Strait Islander women by Change the Record and Djirra, supported by other Aboriginal Controlled Organisations (ACOs), rather than only a separate Action Plan. We reiterate our comments that a greater focus on the impacts of colonisation and resulting intergenerational trauma is essential for exploring the drivers of DFSV in Aboriginal and Torres Strait Islander communities.

We would also inquire as to the limited reference to specific data points focused on the experiences of DFSV among Aboriginal and Torres Strait Islander women and children. The data points included on page 42 are central to an understanding of the heightened DFSV risk that Aboriginal and Torres Strait Islander women and children experience, yet they appear in a rather small and blurry photo screenshot - we would strongly encourage these data points to be more explicitly explored and analysed in the substantive content of the report. The Closing the Gap Foundation Principle needs to address the ongoing impacts of colonisation more adequately as a driver of violence against First Nations women as in the Changing the Picture report produced by Our Watch. Finally, we note that the Plan refers to Aboriginal and Torres Strait Islander women being less likely to report violence because of past government practices, however, it is essential to note that this mistrust is also due to current government practices and experiences with police contemporaneously.

Migrant and refugee women: In our view, the draft National Plan contains only cursory and high-level information on migrant and refugee women. We recommend that the Plan address that many services that support women experiencing DFSV require residency, such as Centrelink access and many women's shelters. TEWLS is the service delivering the Temporary Visa Holders Experiencing Violence Pilot in the Northern Territory, an innovative and critically-received (positive) pilot Commonwealth government program funding free legal help with migration and other civil matters for migrant and refugee women experiencing DFSV. We do note that at the time of this submission, the pilot is only 12 months long, with funding technically expiring on 1 June 2022. Relationship building with local migrant and refugee communities to develop trust to seek help is a long-term project, with result that we strongly advocate for and would welcome long-term secure funding to properly assist this vulnerable community.

Women with disability: TEWLS agrees that the draft National Plan does emphasise the higher incidence of DFSV among women with disability, and the intersectionality of this dynamic among other community groups, especially Aboriginal and Torres Strait Islander women. We also wish to highlight the circular relationship between disability and DFSV: women with a disability are more likely to experience DFSV, and women who experience DFSV are at a high risk of acquiring a disability as a result of this DFSV. We call for the National Plan to not only emphasise this higher incidence, but also to elaborate on the reasons for this higher incidence, the barriers to accessing help, and the diversity of experiences that women with disability may have with DFSV. We also wish to call to attention the need for better data on DFSV and disability - the 2021 ABS release on experiences of DFSV among Australians with a disability draws upon the Personal Safety Survey, which excludes persons with disability residing in institutional settings despite their increased vulnerability to DFSV.

Children and young people: TEWLS recommends greater focus on intergenerational cycles of violence experienced by children who grow up in families with DFSV. We also wish to highlight the impact of the criminalisation of women who are victim-survivors of DFSV, including due to misidentification of primary perpetrators, on children. Of female prison entrants surveyed by the Australian Institute of Health and Welfare, 17% had a parent or carer in prison during their childhood and 54% reported having at least 1 dependent child. Additionally, an intersectional focus on children particularly vulnerable to DFSV is essential. Aboriginal and Torres Strait Islander children are disproportionately affected by DFSV. In 2017/18, Aboriginal and Torres Strait Islander children were the subjects of substantiated notifications of harm/risk of harm at a rate that was 8.5 times the rate as that of non-Indigenous children per capita in the Northern Territory. There is a strong relationship between misidentification of primary perpetrators, the removal of children into the child protection system, and later offending by children as a result of the trauma from DFSV exposure.

LGBTQIA+ people: In our view, there is no focus or discussions in respect of issues specific to this group included in the draft National Plan. We submit that there is cross-over between the issues presenting in LGBTQIA+ communities and youth, with a delay in recognition of DFSV patterns caused by a lack of awareness and/or understanding of DFSV; the result of inadequate funding and focus on early and primary intervention approaches. Additionally, queer youth who live at home are at increased risk of DFSV from family members when coming out. Further, we express concern that the draft National Plan is silent as to the different drivers of violence experienced by persons in queer relationships, with effect that these communities will be unable to access understandings and learnings in respect of DFSV.

Continuing community and political perceptions of LGBTQIA+ relationships continue to impact the capacity of this community to access help, with fear of judgement acting as an additional and unnecessary barrier. Further, we note that in respect of specialist services, there are few services specifically for the LGBTQIA+ community, such as the Inner City Legal Centre in NSW.

Brotherboys and Sistergirls: We submit that the optics in respect of the inclusion of Brotherboys and Sistergirls in the definition section of the draft National Plan, but not in the content of same, presents as tokenistic and without purpose.

Women in rural, regional and remote communities: We submit that the draft National Plan fails to include “very remote” communities in its strategy, including remote Aboriginal and Torres Strait Islander communities in the NT. In our view, an increased focus on the realities of service complexity in regional, rural, remote and very remote contexts is required, principally in respect of adequate funding (in respect of recruitment and service consistency as related to culturally safe and respectful community relationships), as well as realities in respect of conflicts (i.e. more than one service required to service remote communities).

Older women: An Australian study undertaken in 2017 demonstrated the association between intimate partner violence and health outcome persists over a 16-year period, with effect that it is TEWLS’ view that older women must be included at the forefront of women’s experiences of DFSV. Within the study, women who had experienced intimate partner violence reported poorer mental and physical health throughout their lives.

Compounding the impacts felt by older women who have experienced and/or are experiencing DFSV is the interaction between DFSV and dementia. In a 2017 address, the Age Discrimination Commissioner, Dr Kay Patterson, recounted a “disturbing case” regarding a 78-year-old woman experiencing sexual abuse at the hands of her husband who had Alzheimer’s Disease. In seeking assistance from her GP, the woman was told that the sexual

abuse “was common” and that men exhibiting the behaviours (DFSV) would usually move through the “stage” after around a year; no support or referral was offered.

Q18 - The draft National Plan supports building further evidence on what works for gender-based violence prevention, early intervention, response and recovery.

Survey response:

While TEWLS acknowledges the focus on data and evidence within the Plan, concern re the scarcity of data for non-major metropolitan areas, including remote Indigenous communities. In our experience, data is crucial in substantiating advocacy efforts, such as funding, which, when core data includes ABS data, leaves small communities out of the equation. Additionally, data in respect of incarcerated women's experiences of DFSV remains lacking, with current national data not demonstrative of the lived experiences of women in NT prisons.

Extended response:

While TEWLS acknowledges the focus on data and evidence within the draft National Plan, we express concern regarding the scarcity of data for areas that are not major metropolitan areas, including remote Aboriginal and Torres Strait Islander communities. In our experience, and as noted in the draft National Plan, data is crucial in substantiating advocacy efforts, such as funding, which, when core data includes ABS data, leaves small communities out of the equation.

Additionally, data in respect of incarcerated women's experiences of DFSV remains lacking, with data currently held by the AIHW and ANROWS not demonstrative of the lived experiences of women incarcerated in the NT.

Q19 - The draft indicators and outcome measures provide a strong framework for measuring progress towards the next National Plan goals.

Survey response:

Concern re implementation of and investment in the Plan, particularly in light of the disappointing outcomes of the first National Plan, as well as the insufficient reflections on same's failings. With respect, the experience of TEWLS as a responsive, "front line" service provider is that without substantial and appropriate investment, including significant funding to specialist, connected services such as women's legal services and women's shelters, there can be no progress towards the eradication of DFSV. Further, concern re 5-year funding.

Extended response:

TEWLS expresses concern with respect to the implementation of and investment in the draft National Plan, particularly in light of the disappointing outcomes of the first National Plan, as well as the insufficient reflections on the failing of same. With respect, the experience of our service as a responsive, "front line" service provider is that without substantial and appropriate investment, including significant funding to specialist and connected services such as women's legal services and women's shelters, there can be no progress towards the eradication of DFSV.

Further, we hold concern that the proposed five year action plans do not reflect the sector's need for investment in secure and sustainable service systems.

Q22 - Is there any other feedback or additional information you wish to provide?

Relevant to consideration of the above feedback is that on its current trajectory, the draft National Plan will have the same impact as the first National Plan, being nil changes to DFSV rates. Per the AIHW, national population surveys demonstrate that rates of partner violence have remained stable since 2005, with the rate of women being hospitalised because of family violence and the number of people accessing services, including police, hospital, child protection and homelessness services increasing.

Further, we encourage leadership in respect of national definitions, including "consent", noting the current work of advocates including Grace Tame and Chantal Contos.

Conclusion

We appreciate the opportunity to make this submission and look forward to our service's further involvement in the development and action of the draft National Plan.

Should you require further information, please contact TEWLS by phone on (08) 8982 3000 or email to the writer via admin@tewls.org.au.

Yours faithfully,

TOP END WOMEN'S LEGAL SERVICE INC.



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