



FAMILY COURT
OF AUSTRALIA

FEDERAL
CIRCUIT COURT
OF AUSTRALIA

FAMILY VIOLENCE PLAN

APRIL 2019

Foreword

Family violence is a difficult issue prevalent in the work of the Family Court of Australia and the Federal Circuit Court of Australia. Violence and its adverse impacts, physically, emotionally and financially, inform much of the courts' practices and procedures. The *Family Violence Plan* ('the Plan') represents the ongoing commitment by both courts to the early identification and management of matters where violence or the risk of violence is alleged, and to keeping all court users safe.

This Plan has refined and updated the *Family Violence Plan 2014-16*. It builds on the important work undertaken by the courts under the 2014-16 Plan and reflects the ongoing commitment of the courts to addressing family violence in all areas of operation.

The Plan is an overarching document that contains actions for the administration of the courts, and for decision makers, legal practitioners, service providers and others involved in the family law system. Its focus is on ensuring best practice in all areas of administration, operation and application of the law. It covers areas as diverse as building layout, security screening, risk assessment, safety planning for individual litigants and education and training of staff. It also covers the review and updating of the *Family Violence Best Practice Principles*, a document designed to assist judges, legal practitioners and litigants understand the legal requirements for all matters in which family violence is alleged. The Plan sets out three priority areas, each of which has defined goals, identified actions and timelines. These priority areas are: protection from family violence; safety at court; and information and communication.

The Plan reflects contemporary understandings of the aetiology, dynamics and effects of family violence, informed by social science research. It has been developed in the context of the ongoing commitment of the Government to address and eradicate family violence.

I am grateful to the Family Violence Committee for its work in bringing this Plan to fruition and to all those who have contributed to the Plan's development.



A handwritten signature in black ink, appearing to read 'W. Alstergren'. The signature is fluid and cursive, with a prominent initial 'W' and a long, sweeping tail.

The Honourable William Alstergren
Chief Justice, Family Court of Australia and
Chief Judge, Federal Circuit Court of Australia

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OUR VISION

To effectively address family violence in all matters coming before the courts, to provide a safe environment for all court users and to enhance the safety of children and their families.

OUR GOALS

- All staff and judges are aware of and apply the *Family Violence Best Practice Principles* for the effective, timely and safe disposal of all matters coming before the courts in which family violence or risk of family violence is an issue.
- The courts collaborate with state and territory courts, police and child protection agencies about existing family law orders.
- Court staff have the awareness, skills and resources required to ensure that all persons experiencing family violence are dealt with appropriately.
- The courts have an understanding of the unique issues for particular communities in relation to family violence and use this information to inform court practice.
- The courts' physical layout complies with the best practice principles for accessibility and safety of all court users.
- The courts' processes and practices comply with best practice for accessibility and safety of all court users.
- Court users have ready access to relevant information about how the courts can assist them if they have experienced or are at risk of experiencing family violence.

About the Family Violence Plan

The importance of a Family Violence Plan

Family violence is widespread in Australia, affecting the physical, psychological and emotional wellbeing of adults and children who experience it and live in fear of it.

Family violence has a prominent place in the *Family Law Act 1975* (Cth) ('the FLA') and, in particular, in Part VII concerning children. The FLA contains a range of provisions designed to protect parties and children from family violence. In 2011, the definition of family violence in the FLA was expanded to incorporate notions of coercion and control (which are not always accompanied by physical violence or threats).¹ At the same time, the definition of child abuse was amended to include serious psychological harm arising from the child being subjected to or exposed to family violence.²

The courts recognise the close connection between family breakdown and violence, and the detrimental impact on adults and children living with family violence. Protecting family members, and particularly children, from the effects of family violence is central to all determinations of what is in a child's best interest. Ensuring the safety of all people engaged in the family law system, including when attending court, is also a high priority for the courts.

The Family Court of Australia and the Federal Circuit Court of Australia recognise the importance of having a specific plan to support those experiencing, or at risk of, family violence and to ensure all court users are safe.

This document updates the previous version of the Family Violence Plan and continues the courts' commitment to a comprehensive set of actions to achieve the goals set out above.

The scope of the Family Violence Plan

The Family Violence Plan is an overarching document that contains actions for:

- a. the operation and administration of the Courts, and
- b. decision makers, legal practitioners, litigants and others involved in the family law system.

The actions in the Family Violence Plan are specific and targeted. Measures include:

- regular review of the *Family Violence Best Practice Principles*, which provide guidance to judges, registrars, lawyers and litigants about the conduct of matters in which family violence or child abuse is alleged. Edition 4, published in December 2016, is available at: www.familycourt.gov.au/wps/wcm/connect/fcoaweb/about/policies-and-procedures/family-violence-best-practice-principles and www.federalcircuitcourt.gov.au/wps/wcm/connect/fccweb/reports-and-publications/publications/family-law/family-violence-best-practice-principles
- regular review of the operational and administrative processes of the courts in relation to family violence
- ongoing training and development of staff to enhance awareness and capability in addressing family violence issues, and
- improved communication of the courts' responses to family violence.

¹ *Family Law Legislation Amendment (Family Violence and Other Measures) Act 2011* (Cth) – the amendments referred to commenced on 7 June 2012.

² The new term of being 'exposed' to family violence was inserted, and the definition section now provides that a child is 'exposed' to family violence if the child sees or hears or otherwise experiences the effects of family violence. See [s 4\(1\)](#) and [s 4AB\(3\)](#).

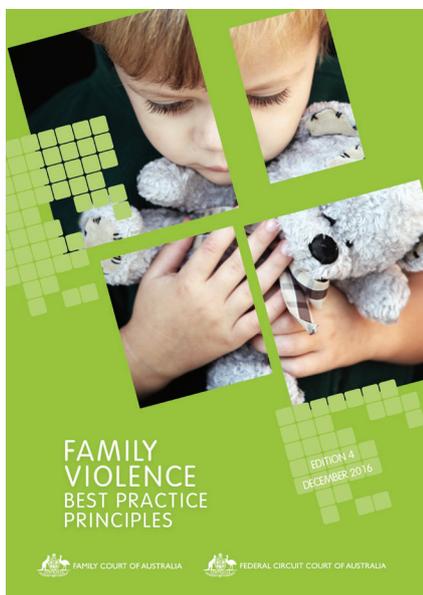
The Family Violence Best Practice Principles

After significant changes were made to the FLA in 2006, the Family Court of Australia developed the *Family Violence Best Practice Principles* ('FVBPP') to assist decision makers. It was later recognised that the FVBPP could also be a valuable tool for lawyers, litigants and others involved in cases in which allegations of family violence, or risk of family violence, are raised.

The current version (Ed. 4) of the FVBPP was developed by the Family Court of Australia and the Federal Circuit Court of Australia and contributes to furthering the courts' commitment to protecting litigants and children from harm resulting from family violence and child abuse.

The FVBPP apply in all cases involving family violence or child abuse (or the risk of either) in proceedings before courts exercising jurisdiction under the FLA, and provide other useful information about family violence for those involved in such cases.

While primarily focused on adjudication rather than administration, the FVBPP have also informed the development of this Plan.



Informing the Family Violence Plan

Legislation, social factors and the findings from key reports have all influenced this Plan. In particular, the following reports have informed the actions contained in the Plan:

- 2018 House of Representatives Standing Committee on Social Policy and Legal Affairs report: *A better family law system to support and protect those affected by family violence*
- Victorian Royal Commission into Family Violence report, March 2016
- Women's Legal Services NSW, *Sense and Sensitivity: Family Law, Family Violence and Confidentiality* 2016
- Family Law Council, *Final Report on Families with Complex Needs and the Intersection of the Family Law and Child Protection Systems* 2016
- Family Law Council *Interim Report on Families with Complex Needs & Intersection of Family Law and Child Protection System, 2015*
- Judicial Committee on Cultural Diversity: *Aboriginal and Torres Strait Islander Women's Experience of the Courts* 2016
- Judicial Committee on Cultural Diversity: *The Path to Justice: Migrant & Refugee Women's Experience of the Courts* 2015
- NSW Domestic Violence Death Review Team Annual Report 2013–2015
- The Third Action Plan 2016, of the *National Action Plan to Reduce Violence Against Women and Girls 2010–2022*
- Queensland Premier's Special Taskforce on Domestic and Family Violence in Queensland, *Not Now, Not Ever: Putting an End to Domestic & Family Violence in Queensland* 2015
- Australia's National Research Organisation for Women's Safety (ANROWS), *Judicial education for domestic and family violence: State of Knowledge Paper*, June 2015

- *Fortress or Sanctuary? Court safety by managing people, places and processes*, Report on study funded by Australian Research Council, Linkage Project December 2014

The range of social and other factors considered in developing the Plan include the following:

- that family violence remains widespread in Australia, affecting adults and children who experience it and live in fear of it
- the need to understand family violence in the context of how it may affect people from Aboriginal and Torres Strait Islander backgrounds, culturally and linguistically diverse communities, rural communities, LGBTIQ people and those living with a disability
- the need for other courts and organisations with a proper interest in family violence and child protection matters to have timely and accurate access to relevant information about existing federal family law orders and pending proceedings for such orders
- that the courts are members of the wider family law system which presents an opportunity to connect those experiencing or perpetrating family violence to organisations that provide support services, and
- the need for identified actions to be implemented within existing funding constraints.

Areas of focus

This Family Violence Plan has the following three areas of focus:

1. Protection from family violence
2. Safety at court, and
3. Information and communication.

A number of goals and actions in this Plan require regular or continuing activity. The focus is to ensure the Plan is practical, effective and achievable, and that it promotes the courts' priority of protecting children and their families from family violence and its associated harms.

Goals and actions

Area 1: Protection from family violence

Goals:

- All staff and judges are aware of and apply the Family Violence Best Practice Principles for the effective, timely and safe disposal of all matters coming before the courts in which family violence or risk of family violence is an issue.
- The courts collaborate with state and territory courts, police and child protection agencies about existing family law orders.
- Court staff have the awareness, skills and resources required to ensure that all persons experiencing family violence are dealt with appropriately.
- The courts have an understanding of the unique issues for particular communities in relation to family violence and use this information to inform all court practice.

Actions	Responsibility	Timeline
Family Violence Best Practice Principles		
Review and update the <i>Family Violence Best Practice Principles</i>	Family Violence Committee National Manager Communications	Triennial Review in 2020 and as needed, particularly following any significant legislative change
Develop and publish a plain English version of <i>Family Violence Best Practice Principles</i>		Publish in 2019 and review in line with review of <i>Family Violence Best Practice Principles</i>
Risk identification and assessment		
Review screening processes for all families in both courts to ensure early identification of risks including family violence and child abuse	Chief Executive Officers Family Violence Committee	Due 2020
Review and update the Family Consultants' national screening tool and the risk assessment framework for use by Child Dispute Services (CDS)	Executive Director CDS	Biennial review, next due 2020
Review and revise the CDS family violence policy and other family violence clinical governance documents to ensure family violence is appropriately addressed		
Ensure Regulation 7 Family Consultants have ongoing access to and are familiar with current CDS governance documents related to family governance		Ongoing

Actions	Responsibility	Timeline
Education and training		
Conduct regular monitoring to ensure all judges undertake the National Judicial College of Australia training in family violence	Chief Justice Chief Judge	Ongoing for new judges and those who did not complete the training in 2018
Conduct regular monitoring to ensure all staff complete the eLearning course on family violence, and that it forms part of the induction process for new staff	Director Court Services Manager Court Services	Ongoing
Develop a policy and implement training to ensure all relevant staff are skilled in creating and implementing safety plans for litigants experiencing or at risk of family violence	Executive Director Court and Tribunal Operations Director Court Services Manager Court Services	Policy to be developed in 2019 and implementation ongoing
Ensure all staff are aware of and make appropriate referrals to the Family Advocacy Support Service (FASS)	Director Court Services Manager Court Services	Ongoing
Develop and implement a comprehensive family violence training package for all Family Consultants, including Regulation 7 Family Consultants	Executive Director CDS	End 2019
Review the National Cultural Diversity Plan to ensure it adequately addresses unique issues in relation to family violence for particular communities and groups	Chief Executive Officers	End 2019
Conduct regular monitoring to ensure all staff complete the eLearning course on Cultural Competency and Access to Justice for People with Disability	Director Court Services Manager Court Services	Ongoing
Develop and implement specific family violence training for contracted security staff	Executive Director Court and Tribunal Operations Marshal Contracted Security Management (currently MSS)	2020

Actions	Responsibility	Timeline
Information sharing		
On a regional basis, develop relationships with other courts, child protection agencies and police to ensure timely exchange of information	Director CDS Director Court Services Manager Court Services	Ongoing

Area 2: Safety at court

Goals:

- *The courts' physical layout complies with the best practice principles for accessibility and safety of all court users.*
- *The court processes and practices comply with best practice for accessibility and safety of all court users.*

Actions	Responsibility	Timeline
Premises		
Develop a list of minimum requirement for court premises to ensure safety for all court users	Family Violence Committee	End of 2019
Undertake an audit of all court premises, including circuit locations, to identify gaps in minimum requirements	Director Court Services Manager Court Services	End of 2019
Analyse audit results and make recommendations to courts' administration to address the gaps in minimum requirements	Family Violence Committee	2020

Actions	Responsibility	Timeline
Practices		
<p>Develop a Safety at Court policy for both courts on safety for litigants at court,³ including consideration of the following:</p> <ol style="list-style-type: none"> The development of safety plans for clients The use of security guards The process for arrival and departure of clients, including whether a risk assessment is undertaken at each court event Waiting processes, including listing practices, to ensure the safety of litigants waiting for hearings on court premises Signage, including about who in the registry to ask for assistance Premises layout, to ensure safety needs can be met The use and location of safe rooms in registries, including how a client can request access to safe rooms Make Safety Plan policy publicly available on the courts' websites 	<p>Executive Director Court and Tribunal Operations Deputy Principal Registrar Executive Director CDS Marshal Director Court Services Manager Court Services</p>	<p>Policy to be developed in 2019 and implementation ongoing</p>
<p>Review the current practices of court event listing and their impact on safety of all court users</p>	<p>Executive Director Court and Tribunal Operations Coordinating Registrars Director CDS Director Court Services Manager Court Services</p>	<p>2019</p>
<p>Develop guidelines for court event listing to minimise risk to safety for all court users</p>	<p>Family Violence Committee</p>	<p>2019</p>

³ To be informed by relevant findings of the University of Western Sydney's court safety research project 'Fortress or Sanctuary', of which the Family Court of Australia was an Industry Partner.

Actions	Responsibility	Timeline
Develop a nationally consistent descriptor in Casetrack 2 for matters in which there is a safety plan	National Executive Leadership Group Chief Information Officer	2019
Develop facilities within Casetrack 2 to enable local and national safety plan reports to be generated	Chief Information Officer	2019
Develop proactive mechanisms for updating safety planning requirements for each court event during proceedings	Director Court Services Manager Court Services	2019

Area 3: Information and communication

Goals:

- *Court users have ready access to relevant information about how the courts can assist them if they have experienced or are at risk of experiencing family violence.*

Actions	Responsibility	Timeline
Family violence information		
Review and update family violence specific publications and web content to ensure they are current, accessible and relevant, including: <ul style="list-style-type: none"> • the ‘Do you have fears for your safety when attending Court?’ brochure and poster, and • any family violence content that is, or should be, contained in general publications or web content 	National Manager Communications	Annual review next due November 2019
Publish family violence specific documents in other languages and in accessible formats		2020, subject to funding
Develop family violence information for specific groups including ATSI, CALD, LGBTIQ people and those with a disability		2020

Actions	Responsibility	Timeline
Enhance the 'Quick Exit' button on all web pages of the courts to include the removal of browsing history	Chief Information Officer	2020
Review the website to improve the grouping and accessibility of family violence information and links to other information and support organisations	National Manager Communications	Ongoing
Review the metadata in family violence sections of the websites to maximise the search results		Ongoing
Ensure information on family violence in relation to the courts' operations is up-to-date and coherent across the courts		Ongoing
Ensure all staff are aware of where and how to access information about family violence and the courts	Director Court Services Manager Court Services	Ongoing
Review fact sheets on the effects of family violence and conflict on children	Executive Director Court and Tribunal Operations National Manager Communications	Annual review November 2019
Review safety at court information provided in appointment letters for clarity and appropriateness		Annual review November 2019
Develop and implement a process for advising to the Family Violence Committee about issues of concern by stakeholders in relation to the courts and family violence/safety issues	Executive Director Court and Tribunal Operations Executive Director CDS Director Court Services Manager Court Services	Process developed November 2019 Implementation ongoing
Referrals		
Review and update all information about referrals to external agencies currently available to those experiencing, or at risk of, family violence	Executive Director Court and Tribunal Operations	Biennially, next due 2020
Review, update and strengthen processes followed by client service staff and Family Consultants in making referrals, including ensuring they use up-to-date lists of organisations	National Manager Communications Executive Director CDS Director Court Services Manager Court Services	Ongoing

Actions	Responsibility	Timeline
Inter-agency cooperation		
Collaborate with state and territory courts, other justice sector and social and community services dealing with family violence and child protection matters to improve information sharing, coordination and better service delivery	Executive Director Court and Tribunal Operations Executive Director CDS Director Court Services Manager Court Services	Ongoing
Family Advocacy Support Services		
Meet regularly with FASS to ensure effective referrals, information exchange and safety planning	Director Court Services Manager Court Services	Six monthly meetings and otherwise as required