**2010 Review of Domestic and Family Violence Legislation in Queensland**

Background

On 10 July 2009, the old government launched *“For our sons and daughters”* – A Queensland Government Strategy to Reduce Domestic and Family Violence 2009-2014.

The goal of the strategy was to better protect victims, particularly women and children, by breaking the cycle of violence as early as possible. Reforms were aimed at improving the service system, reducing demand, ensuring a coordinated approach between agencies to improve the safety of victims and families, and to hold perpetrators more accountable.

A key initiative of this strategy was the review of the *Domestic and Family Violence Protection Act 1989.* In 2003 significant amendments were made relating to the types of relationships covered by the legislation, however, the Act had not been comprehensively reviewed since it was introduced more than 20 years prior.

This paper shall identify the key areas of consultation for the review and the feedback received, and provide a short summary of the key legislative changes resulting from the commencement of the new Act on 17 September 2012.

Consultation

In March 2010, a discussion paper, entitled ‘*Review of the Domestic and Family Violence Protection Act 1989 – Consultation Paper 2010’* was released for consultation. It covered the following five key areas identified as underpinning good practice in DFV legislation:

Prevention

* definition of behaviours
* definition of relationships
* principles enshrined in the Act

Civil and Criminal Responses

* civil and criminal response
* identification of primary aggressor – cross applications

Protection of Victims

* children
* indigenous people
* immediate police response
* understanding legal processes

Perpetrator Accountability

* breaches
* ouster conditions
* behaviour change programs

System Planning and Coordination

* confidentiality and information sharing

The *Review of the Domestic and Family Violence Protection Act 1989 – Consultation Report 2011* states 214 submissions were received from organisations, government agencies and individuals in response to the consultation paper. The main areas of reform which emerged from the consultation included the following:

Prevention

A desire for changes to the definition to adequately acknowledge the unacceptability of DFV, the range of abuses it comprises, and the power and control dynamics which underpin this form of violence.

Confirmation that the current relationship categories were largely adequate, though some clarification was required, especially around the identification of ‘intimate personal relationships’.

Support for the introduction of principles to the legislation to assist practitioners in achieving a consistent approach in the interpretation of the Act.

Civil and Criminal Responses

Support for a greater criminal justice approach to be applied concurrently with the existing civil process was clear, with participants of the belief this would send the message that DFV is unacceptable. 71 per cent of participants agreed there needed to be a change in the balance between the civil and criminal responses to DFV. A number of consultation sessions indicated a stronger criminal justice response was required, with the need to enforce a zero tolerance message and ensure accountability of perpetrators; recognise that an assault within the home is a crime and should not be treated differently to any other assault; and address the perception that the current approach is ineffective.

To achieve this, participants suggested increasing obligations on police to investigate and prefer criminal charges and recognising the commission of these offences in a domestic context as a circumstance of aggravation.

37 per cent of responses supported the creation of a stand-alone offence of committing domestic violence and 16 per cent of responses indicated such an offence was not necessary. Those who did support the creation of a stand-alone offence believed that such an offence would cover behaviours not adequately addressed in the current *Criminal Code*, would complement the existing civil order protection measures and assist in enforcing the zero tolerance message by establishing that domestic violence is a crime.

Participants who did not support the creation of a new offence indicated that the current range of offences was sufficient to address behaviours which can constitute DFV and that a separate offence would reinforce the notion that offences occurring in a domestic context are less serious than other criminal offences.

There was support for the development of responses aimed at identifying the person who is in most need of protection to address the issue of inappropriate cross applications.

Protection of Victims

Responses highlighted the impact on children who are witnesses to DFV and the need for this to be reflected in the legislation. 81 per cent of participants agreed that the legislation should specifically include the protection of children in its purpose.

It was thought that legislative guidance was required for victims of DFV who are from culturally or linguistically diverse backgrounds so that they have fair and equal access to justice processes. A number of participants identified the need for responses to be tailored to the needs of specific communities.

Removing barriers for parties accessing the system was also viewed as a priority, with participants strongly supporting the need for use of interpreters with limited understanding of English, increased access to legal assistance and advocacy and simplification of court processes.

Perpetrator Accountability

Responses strongly supported the need for perpetrators to be held to account for their actions and links between breach provisions and related criminal offences to be strengthened. 34 per cent of participants also considered the current range of sentencing for breaches as inadequate.

Participants also supported consideration of the use of behaviour change programs to reduce the severity or likelihood of DFV. 47 per cent of participants believed behaviour change programs should be mandatory and 7 per cent considered they should be voluntary. There was a mixture of views as to when such programs should be imposed – at the time of making a domestic violence order (civil), as a sentencing option (criminal), or both. Many contributors believed behaviour change programs should be mandatory at the time of sentencing for a breach on the basis that offenders would be less likely to participate voluntarily. The difficulties in providing these services in remote and regional areas was recognised by participants.

There was also some agreement to support an expansion of police powers to provision for police to issue short-term protection orders and to increase the detention time for a person taken into custody with a view to better ensuring victim safety and perpetrator accountability by demonstrating an immediate response to DFV.

System Planning and Coordination

The need for system reforms, particularly for training those involved in implementing the legislation, and to facilitate information sharing and integrated approaches was also emphasised. 42 per cent of participants supported the development of an integrated or coordinated response to DFV.