

## **Section 11. Improving the accessibility of courts**

*To what extent is lack of funding a barrier to greater use of technology in dealing with legal issues — both in terms of court processes and management and in providing outreach and other online services for those using the civil justice system? How can such barriers be mitigated?*

*How can technology be best used to improve the efficiency and scope of service delivery? What opportunities exist to increase collaboration across the sector to further develop the use of technology?*

*What opportunities are there to use technology to cost-effectively expand services, particularly for regional and remote Australia? What other groups might benefit from the delivery of cost-effective outreach and online services? Do some groups face particular obstacles in using online services?*

### **Introduction**

WHIN, in partnership with Women's Health Goulburn North East<sup>1</sup> and Berry Street, have been funded by the Legal Services Board in Victoria for a three-year project to improve women's access to justice through the use of Skype technology. The project is entitled, 'Women, Lawyer, Workers'. The two women's health services together cover 19 Local Government Areas (almost a third of the State). The first component is trialing a partnership with the Women's Legal Service Victoria to provide legal advice on family law matters over Skype three mornings a week to women who are experiencing, or have experienced family violence. The second component is research to document the reason women need this service and how their access to justice is severely limited by a range of factors including financial (and increasing restrictions on Legal Aid), geographic, and compromised personal resources through the violence directed to them and their children. (Please see <http://www.whin.org.au/projects/women-lawyers-workers.html>. A brief literature review upon which this project was based is available upon request.)

### **Background**

The expert advice on family law and family violence matters that the Women's Legal Service Victoria can provide women is critical to the safety of women and their children when considering key issues in their family law matters. Working together with specialist family violence agencies, women access legal advice from a computer at agency she has been supported by or in her own home with the support of a worker. Many of the women who are supported by family violence agencies have complex and multiple legal issues stemming from family violence. Research on the experience of women who had experience family violence in navigating the family law system found a lack of coordination between the state civil protection order system and the Family Courts. Women in the study found that they had to navigate a fragmented system and attend several courts to resolve their legal issues.<sup>2</sup> Additionally, women may have been mis-informed either by their partner, or the community regarding their rights on a range of family law matters such as parenting plans and property. Through the project, women have been able to access advice in a safe and familiar place,

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<sup>1</sup> For information about WHIN, see [www.whin.org.au](http://www.whin.org.au) and WHGNE, see [www.whealth.com.au](http://www.whealth.com.au)

<sup>2</sup> Laing, L. (2010). *No way to live: Women's Experience of negotiating the family law system in the context of domestic violence*. Sydney, Faculty of Education and Social Work, University of Sydney.

with the added benefit of a worker sitting in on the advice session should a woman require additional support in understanding their rights. While there is an array of printed and online material that women can access to be informed of their rights, it cannot replicate access to expert legal advice on their matter.

### **Improving access to justice through the WLW pilot project**

After six months establishing partners in the family violence sector, and 18 months of appointments, the project is now moving into the final year of research. Within the first year of the project and with the support of their family violence worker, close to 250 women accessed legal advice on family violence and multiple other matters. Appointments were made by the family violence agency the woman was engaged with, and the woman then attended the same agency to receive advice in a safe and familiar environment, with the added benefit of support from a family violence worker. Rural agencies also trialed taking a Skype- and Internet-enabled laptop to women outside provincial towns. Its value to the Women's Legal Service Victoria is evidenced by their continuance of the program without funding for the month of December, and their commitment to finding ongoing sources of funding.

The project has had great benefits for both women and family violence workers as it has enabled them to receive legal advice from lawyers with expertise in Family Law and family violence. Many women who suffer family violence experience severe disadvantage in accessing justice as a result of the violence and as they do not have the financial resources to engage lawyers, or may be unable to access legal aid due to issues with conflicts of interest. This is particularly the case for rural women.

Women in rural areas are more likely to be economically dependent on their male partners, partly due to the conservative, family-centric values often present in rural areas which increases the likelihood of men controlling family finances. Additionally, women in rural areas are more likely to experience difficulties in accessing legal services, lawyers and courts due their geographic isolation. There are a number of specific issues that arise with legal and other support services in rural areas. Family violence services, including courts, police, crisis housing/refuges and childcare are much less common than in metropolitan areas, and rural women are less likely to be aware that such services are available. For example, in the Lower Hume region of Victoria, women who live in the Shires of Mitchell and Murrindindi have no access to Community Legal Centres (CLC) unless they travel outside of their Local Government Area. The same applies to women in other rural areas. For legal services, issues of confidentiality become highly important. The increased attention given to women who seek legal protection is an enormous problem, especially as in a small community many may know and interact with the perpetrator socially, which may partially account for a lack of community support for women reporting violence. In addition, court staff and police may know the perpetrator and/or the victim, leading to conflicts of interest. Conflict of interest also arises due to the low number of legal services in rural areas as a legal service which has had contact with one of the parties in dispute cannot provide service to the other party. This especially affects women as male perpetrators of violence are likely to require legal representation immediately following an incident

while women victims may not seek it out until some time later<sup>3</sup>. Furthermore men are more likely to be able to pay the full fee while women are more likely to rely on legal aid.<sup>4</sup> The split of Legal Aid which predominately goes to men is itself, a clear issue of gender inequity.

Research has shown that the period after separation is the most dangerous time for women leaving violent relationships, and many women continue to experience ongoing violence towards them and their children.<sup>5</sup> Due to Victoria Legal Aid's funding cuts for family law matters, this collaborative project has been vital in providing women access to legal advice. In September 2013, *The Age* reported that Victoria Legal Aid funding cuts for family law matters had resulted in a family violence victim being cross-examined in court by the perpetrator who was convicted of assaulting her.<sup>6</sup>

The use of *Skype* in this project offers an effective outreach model as it provides greater geographic scope for a lawyer from the Women's Legal Service Victoria to provide legal advice to women in rural locations without the loss of time through travel. This has been particularly pertinent when working with women who are experiencing family violence as, during times of crisis and often with infants and small children, they may arrive late to an appointment or cancel a few minutes before the appointment. As the lawyers who are scheduled to Skype with the client remain in the office, they are able to continue with other work even if the client is unable to keep the original appointment.

Working in collaboration with a worker from a family violence agency provides the woman with support in receiving legal advice, which is often lengthy and multifaceted. This system is valued by the lawyers too, as a woman's worker is able to filter her issue to those just pertaining to legal matters and to offer emotional and practical support to the woman before and after her legal advice sessions. There are now several Victorian CLCs which offer legal advice over video link, including YouthLaw, Victoria Legal Aid and Flemington Kensington Community Legal Centre. Working collaboratively this way enables the worker to access general legal advice on similar matters through secondary consultations if the woman is unable to maintain the appointment, thereby increasing their own knowledge.

WHIN believes that collaborative, cross-sector work is a key component in tackling the systemic disadvantage that many in the community experience, and that this project can be applied to many other sectors working with vulnerable community members.

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<sup>3</sup> Joint Committee of Public Accounts and Audit (2005). *Access of Indigenous Australians to law and justice services*. Canberra

<sup>4</sup> Australian Government (2004). *Legal aid and access to justice*.

<sup>5</sup> Johnson, 2005 and Richards, 2004 cited in the National Council to Reduce Violence Against Women and their Children (2009). *Time for Action: The National Council's Plan for Australia to Reduce Violence against Women and their Children, 2009 - 2021*. Canberra

<sup>6</sup> Lee, Jane (2013). 'Violence Victim Forced to Answer Ex-partner in Court', *The Age*. <http://www.theage.com.au/victoria/violence-victim-forced-to-answer-expartner-in-court-20130927-2uk2t.html>

While several Community Legal Centres have been able to provide legal advice via telephone, the addition of video allows the lawyers to be able to see their clients' non-verbal reactions. On several occasions, the lawyers have been able to tailor their responses and how they deliver the advice based on the visual cues rather than relying solely on verbal responses from clients. Initial interview data indicates that this aspect is equally valued by the workers and women. Furthermore, working in collaboration with family violence workers ensures the woman who is receiving legal advice has the opportunity to debrief with her support worker, and clarify any issues that she may not have understood. There has been occasions where the video connection has not been clear enough to continue the session over Skype, in which case the remainder of the session would be held over the phone. However, it appears that even a few minutes of visual contact significantly decreases the time it takes to build rapport with women. A 2011 study found that most lawyers and clients still preferred a meetings in-person, however when such meetings were not possible it was reported that video conferencing was a functional and acceptable alternative.<sup>7</sup>

### **Conclusion**

The Women, Lawyers, Workers pilot project was developed in response to clear cases where women had no access to the courts and in two cases, were restricted to 30 km of their home, while their violent partner was free to come and go. This restriction severely impacted on their ability to earn a living and in one case, on her children's educational opportunities, while increasing their vulnerability to ongoing power and control by ex-partners.

The experience of the pilot over the past two years has demonstrated both time- and cost-effective delivery of legal advice to women who, in the great majority of cases, otherwise would not have had access to justice. We would urge its ongoing funding and extension to other areas of the State, and indeed, the country. Equally, we would urge equitable access for women to legal aid.

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<sup>7</sup> Forell, S., Laufer, M., et al. (2011). Legal assistance by video conferencing: what is known? in *Justice Issues Paper 15*.

## References

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