

## **Domestic and Family Violence – where are the gaps?**

### **Information for the NT Jurisdictional Forum under the National Partnership Agreement**

The Domestic Violence Legal Service (DVLS) has been coordinating a brief scoping study of funding gaps in legal services for people experiencing or otherwise affected by domestic and family violence. The study aims to contribute to the NT Jurisdictional Forum with the aim of identifying strategies to fill those funding gaps.

As a starting point, DVLS invited NT Legal Services to participate in a survey to identify where they see the gaps in legal services in domestic violence matters. Seven agencies participated in the initial survey conducted in April 2012. The surveyed agencies provide a snapshot from service providers working in both urban and remote communities and in both Central and Top End NT of the current gaps in service provision.

### **Legal Services in relation to Family and Domestic Violence**

Legal services being provided in relation to domestic and family violence in the NT generally include:

- advice and assistance for applicants/people in need of protection provided during legal information clinic sessions and at Court;
- advice and assistance for defendants accused of crimes relating to domestic violence and breaches of domestic violence orders;
- general advice and assistance for women experiencing domestic or family violence;
- community legal information; and
- law reform and policy work.

These legal services are provided in different ways for applicants and defendants and across many, but not all areas of the NT. A significant proportion of the legal services are funded by the Australian Government, while funding for other services is generally being provided by the NT Department of Justice. The question arises as to whether services are being adequately funded to provide services that they deem to be appropriate, relevant and necessary. It is hoped that by highlighting the identified gaps for discussion at the jurisdictional forum that a commitment can be made to work together to devise a strategy to fill these gaps.

### **Gaps in the Provision of Legal Services in Relation to Family and Domestic Violence**

#### *Lack of services and understanding of domestic violence matters generally*

- Limited capacity of legal aid services to assist all parties in domestic violence matters. In light of the serious nature of such matters a need is identified for higher levels of legal assistance including advice, representation and community legal education for protected parties, applicants and defendants.
- Very limited services are available outside of Darwin to provide advice and representation for protected parties and defendants who are seeking to have existing domestic violence orders varied. The need for assistance is particularly acute where existing orders conflict

with family law orders or both parties have reconciled and are consequently in breach of the domestic violence order.

- Existence of increasing numbers of clients that are not eligible for legal aid, but can't afford a private solicitor. Some are assisted by generalist legal services where their guidelines permit, placing further strain on already strained resources, others in this position are simply unable to obtain assistance.
- Some legal services' guidelines and /or capacity constraints mean people who are in need of protection but who have also been a perpetrator or are alleged to have been a perpetrator cannot obtain legal assistance.

#### *Legal Services at capacity*

Resources are currently stretched with clients sometimes waiting over two weeks to attend an appointment for advice and information about domestic violence. Although clients can be referred to police for urgent matters, there are many matters not classified as urgent but still leave vulnerable people at risk of continuing to experience or be exposed to family and domestic violence.

#### *Lack of services in remote communities*

There is a complete absence of funding for legal services to provide on-the-ground legal advice, information and representation to people in need of protection in a significant number of the growth towns and major communities such as Maningrida, Galiwin'ku and Milingimbi.

There is a need for legal services arising from a widespread perception of lack of understanding in remote communities about domestic violence and domestic violence orders both by people in need of protection and defendants. Low levels of English and education heighten this need.

Defendants are generally only assisted in remote areas in relation to criminal charges arising from domestic violence incidents and only during court circuits.

#### *Lack of services for defendants*

Aboriginal Legal Aid Services such as NAAJA provide a duty service in urban centres where they have capacity, but this is ad hoc and not specifically funded. Non-Aboriginal defendants generally have no access to duty services. Defendants in urban centres have limited access to legal advice about domestic violence order proceedings.

Without legal advice or representation, defendants are frequently seen consenting to orders without understanding the consequences of breaching orders. Such orders may or may not be appropriate in the circumstances and may be made for extensive periods of time. Where breaches result, the entire purpose of orders being made to prevent the further commission of domestic violence by imposing severe penalties in the event the orders are breached is undermined.

#### *Relationship with Family Law*

Barriers for clients accessing legal services in relation to family law matters where domestic violence was an issue in the relationship, for example in relation to recovery or relocation matters. Again, some clients fall into the gap of earning too much to be eligible for Legal Aid and earning too little to

be able to afford a private solicitor. It is often the case where women seeking relocation orders after originally moving due to their partner or husband's work (for example in mining or the defence force), has been the primary care-giver to the children and are seeking to relocate to a location closer to their families after the break down of a relationship that was emotionally and sometimes physically abusive.

*Lack of related social or other services*

Gaps exist beyond the provision of legal assistance. Legal service providers are unable to meet demand for a range of related services to clients.

**Existing NT Legal Services for Family and Domestic Violence Matters**

Domestic Violence Legal Service (DVLS), Central Australian Aboriginal Family Violence Legal Unit (CAAFVLU), Central Australian Aboriginal Legal Aid Service (CAALAS), Central Australian Women's Legal Service (CAWLS), Darwin Community Legal Service (DCLS), North Australian Aboriginal Family Violence Legal Service (NAFVLS), North Australian Aboriginal Justice Agency (NAAJA), Northern Territory Legal Aid Commission (NTLAC), Top End Women's Legal Service (TEWLS), Katherine Women's Legal Service (KWLS).

DVLS thanks those legal services that have already contributed to the study and looks forward to working with more services to strengthen collaboration in serving NT communities affected by domestic and family violence.

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