

Evaluation of Victoria Legal Aid's Specialist Family Violence Courts Legal Practice Model

Final Report

September 2024



Acronyms

ACE	Aboriginal Community Engagement
AFM	Affected Family Member
CIJ	Centre for Innovative Justice
CLC	Community Legal Centre
IRO	Information and Referral Officer
MBCP	Men's Behaviour Change Program
MCV	Magistrates' Court of Victoria
PCE	Pre-Court Engagement
RCFV	Royal Commission into Family Violence
SFVC	Specialist Family Violence Court
VLA	Victoria Legal Aid

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Executive Summary

Background and scope

The operation of the Specialist Family Violence Courts

The 2016 recommendations of the Royal Commission into Family Violence (RCFV) included a call to establish a network of Specialist Family Violence Courts (SFVCs) across all headquarter Magistrates' Courts in the state. The SFVCs can hear Family Violence Intervention Order (FVIO) applications alongside other related matters, including bail applications, pleas in criminal cases, family law parenting matters and victims of crime applications.¹

The SFVC model includes a range of features designed to ensure the physical, psychological, and cultural safety of its users, such as specialist magistrates and court staff, as well as Umalek Balit, which is a culturally safe, non-legal support program for Aboriginal and Torres Strait Islander families. Initially established at Shepparton, Heidelberg, Frankston, Moorabbin, and Ballarat Magistrates' courts, the Victorian government has gazetted an additional eight courts. By 2025, a projected 14 courts across Victoria will operate the SFVC model.²

The establishment of Victoria Legal Aid's Legal Practice Model

Within this wider program of court reform – and as part of its collaboration with MCV to deliver the SFVC model – Victoria Legal Aid (VLA) developed a new SFVC Legal Practice Resourcing Model (the Model) to deliver best practice legal assistance to people with family violence legal needs, with the Model rolled out at the five initial SFVC sites.

At its foundation, the Model's activities combined to:

- increase the provision of quality information on legal assistance and court processes;
- increase duty lawyer resourcing across SFVCs;
- provide training and support to lawyers focused on trauma-informed and non-collusive practice, assessing and responding to broader legal needs and negotiating outside court;
- improve support for non-legal needs through the creation of new, dedicated roles, being Information and Referral Officers (IROs) based at each of the relevant sites; and
- improve cultural competency through the utilisation and expansion of dedicated Aboriginal Community Engagement (ACE) officers based at specific locations.

Crucial to note, the Model was developed in consultation with people with lived experience, as well as with key partners within the service sector such as Community Legal Centres (CLCs), the Magistrates' Court of Victoria (MCV), Victoria Police and specialist family violence services.

In late 2020, the Centre for Innovative Justice (CIJ) was engaged by VLA to evaluate the Model through a competitive process in which potential suppliers were assessed by a panel that included lived experience expertise.

¹ Magistrates' Courts Victoria, *Specialist Family Violence Courts* (Web Page, May 2024) <<https://www.mcv.vic.gov.au/about/specialist-family-violence-courts>>.

² Victorian Government, *Family violence recommendations – Extend the functions of the Family Violence Courts to other courts* (Web Page, January 2023) <<https://www.vic.gov.au/family-violence-recommendations/extend-functions-family-violence-court-division-courts-other-courts>>.

Although the CIJ and VLA initially agreed to a more standard evaluation approach, the decision was jointly made to adopt a developmental evaluation approach. This was to allow for the impacts of COVID on the wider SFVC environment, as well as the progressive implementation of the Model components over an extended period of time.

The evaluation's first round of data collection included a survey of key stakeholders and in-depth reflection sessions with the relevant FV program staff, with a summary report delivered in November 2021. Further data collection occurred throughout 2022 involving reflection sessions and site-based consultations, informing an interim evaluation report in late 2022.

The findings of the interim evaluation report, however, highlighted the need to revisit the evaluation scope, to ensure that the final stage would be on the Model itself – its activities, its barriers and enablers – as well as the *potential* of the Model to achieve intended and *emerging* outcomes. The final stage therefore included the following activities:

- Analysis of project documentation;
- Analysis of VLA and CLC service data (collected between December 2022 – March 2024);
- Client surveys administered by VLA (35 in total);
- Case studies completed by IROs and VLA and CLC duty lawyers (20 in total);
- Consultations with stakeholders working within and connected to the Model (72 in total);
- A literature scan of the domestic and international evidence base.

All activities received ethical review and approval from RMIT University.

Findings

The interim evaluation found that the implementation of the Model was negatively affected by the initial impacts of COVID on all court environments, as well as the shift to the ongoing use of technology and hybrid court environments. The final phase of the evaluation, however, pointed to consistently strong and positive findings.

Across the data sources described above, for example, one of the strongest features of the Model was the fact that it is centred on providing **client-focused support**. This involved legal and non-legal support roles proactively identifying and effectively responding to client needs.

A further finding related to the **quality of legal advocacy**, with legal practitioners describing themselves as feeling more confident in making family violence informed submissions to the court and judicial officers observing an improvement in advocacy skills and experience.

A particularly strong finding related to **the role of the IROs & ACE officers**. To note, the ACE officer role pre-existed the development of the SFVC Model, although it was operationalised in one location through SFVC funding. The flexibility and independence of these roles, including their capacity to commence and remain engaged with clients prior to or following court hearings, was found to be a real strength and was described as **“the missing link”** in the SFVC environment. The roles' strengths included their ability to provide information and a range of internal and external referrals (both legal and non-legal), administrative support, advice on court etiquette and how to navigate the court process, as well as practical support.

Legal and non-legal roles alike were also found to contribute to **improved safety** by connecting victim survivors with specialist services, advice for additional areas of legal need, advocacy to connection with interpreters, and practical assistance to access other forms of practical support.

Legal and non-legal roles were also found to contribute to **increased engagement, accountability & compliance** for people using family violence. This included through the provision of family violence informed legal assistance, as well as non-legal support through the IRO and ACE officer roles. This was especially crucial, given that people using violence are often less engaged and have less understanding about the court process overall.

In addition to the supports provided directly to clients, the evaluation found that the Model had been very effective in involving the perspectives of **Lived Experience Advocates (LEAs) in its design, implementation and governance**. LEAs felt genuinely involved and supported and found the process to be flexible, responsive and properly resourced. This included through their contributions to information resources for court users.

The evaluation also found that the Model had contributed to **improved coordination** across professional roles since the interim evaluation. This included between VLA and CLCs, as well as with court-employed roles, who noted that the IRO and ACE officer roles, in particular, could “lighten the load” on other personnel. Important here was the leveraging of wider SFVC measures to improve awareness and communication, although the evaluation found that understanding about the IRO and ACE officer roles could still be strengthened in some contexts.

Finally, the evaluation found that implementation of **training and resources had significantly improved** since the interim evaluation, with a range of additional resources produced or in development. In particular, the evaluation heard about the exploration of new platforms to improve access to information for court users. That said, the evaluation highlighted the particular need for resources that were focused on the experience of respondents, as well as the experience of young people and victim survivors who had been misidentified, noting that these resources are currently in development.

Summary and recommendations

Overall, the evaluation found that the Model is **in line with best practice** in the provision of client-focused and family violence informed support for people with family violence related needs. The CIJ notes here the strong evidence base, explored in this report, which highlights the crucial role of independent legal and non-legal assistance for victim survivors to improve access to justice *and* safety, as well as to improve engagement and accountability for people using violence.

The evaluation found that the Model has significant potential to deliver on its intended aims and is already doing so on multiple levels. Against the challenging backdrop of COVID related impacts on court processes; funding for legal assistance which has not kept pace with inflation; and increased family violence demand, the Model has developed a coherent and consistent approach to duty lawyer services that is family violence informed. The Model has also introduced and strengthened innovative roles that provide crucial non-legal support; and centred the voice of lived experience in its governance and development.

Acknowledging the constraints on VLA’s capacity to impact the wider systemic issues described in this report, the CIJ made targeted and practical recommendations, summarised below:

- VLA should **improve information for respondents**, both online and at court – including exploring how information can be provided by Victoria Police. Resources should focus on what to expect at court, legal outcomes, as well as legal and non-legal supports available. These should be developed with the involvement of people who have used violence, including young respondents or women misidentified as predominant aggressors.

- VLA should **improve clarity for court staff and the bench** around the non-legal support roles, including their function as “the missing link” and the basis on which clients are triaged.
- Noting that funding for pre-court engagement from legal practitioners has not been expanded, VLA should continue to explore how referral pathways can be established and strengthened to **maximise client referrals prior to an initial court hearing**.
- VLA should **continue development of an expanded range of training modules**, including finalising those currently underway; developing those identified as priorities by this evaluation and raising awareness of these across staff, the wider court environment and private practitioners.
- VLA should use the work conducted for this evaluation to **inform and support VLA’s wider advocacy efforts** around the value of public legal assistance in improving safety and reducing family violence risk. This should consider developing scope for the IRO role to engage in community legal education/engagement to promote awareness of the importance of free legal assistance, especially in the SFVC context.
- Finally, VLA should **establish feedback channels** to receive information about the Model’s operation at different SFVC locations in a consistent and ongoing way.

In making these targeted and practical recommendations, the CIJ looks forward to seeing the Model go from strength to strength in coming years.

1 Introduction

1.1 Project background

1.1.1 The establishment of the Legal Practice Model

In 2016, the Victorian Government's Royal Commission into Family Violence (RCFV) delivered its final report. The RCFV aimed to reduce family violence across the Victorian community and made 227 recommendations directed at reforming the system response across multiple agencies and sectors, including specialist family violence services, perpetrator interventions, police, health services and the courts. The Victorian Government committed to implementing every recommendation in full to transform the way in which the state responds to family violence.

The recommendations of the RCFV included a call to establish a state-wide specialist court response to family violence by extending the existing Family Violence Court Division to all headquarter Magistrates' Courts and establishing a network of Specialist Family Violence Courts (SFVCs). In response, an initial funding allocation was provided to support the design and implementation, including required capital works, of the new SFVC model across five sites – those being Shepparton, Ballarat, Moorabbin, Frankston and Heidelberg.

Within this wider program of court reform, Victoria Legal Aid (VLA) was resourced by the Victorian government to develop a new SFVC Legal Practice Resourcing Model. The Model was funded to deliver best practice legal assistance to people who were presenting with family violence legal needs in the SFVC environment and aims to provide client-centred, specialist and high-quality legal services that are easy to access; safe to use; and integrated with the family violence service system. It also aims to provide more comprehensive support to people with legal needs before court, at court and after court to address needs which can otherwise trap people in experiences of family violence or contribute to the scale and severity of violence. Consistent with these goals, the Model was created in consultation with people with lived experience, as well as key partners within the service sector such as Community Legal Centres (CLCs), the Magistrates' Court of Victoria (MCV), Victoria Police and specialist family violence services.

The Model was developed on the basis of eight foundational activities, as follows:

1. Providing accessible, quality information on legal assistance and court processes.
2. Increasing duty lawyer resourcing across SFVCs.
3. Providing training, guidance and support to lawyers focused on trauma-informed and non-collusive practice.
4. Encouraging and supporting lawyers to negotiate outside of court.
5. Providing training and guidance to lawyers focused on assessing and responding to broader legal needs.
6. Working with other agencies and services to improve coordination and referrals (including through Information and Referral Officers, or IROs).
7. Improving cultural competency and capacity to work with specific cohorts across legal services (including through the Aboriginal Community Engagement officer role).
8. Implementing a 'Client First' approach to process, practice and service design and evaluation and continuous improvement.

The Family Violence Program within VLA was resourced to manage the design, implementation, and evaluation of the Model. In addition, the project was supported by a multiagency Project Steering Committee, several targeted Working Groups which include sector stakeholders and, crucially, people with lived experience, to inform and shape key elements of the Model design and implementation.

1.2 Evaluating the Legal Practice Model

1.2.1 Developmental evaluation

1.2.1.1 The context of the evaluation

In late 2020, the Centre for Innovative Justice (CIJ) was engaged by VLA to evaluate the Model. This occurred through a competitive process in which potential suppliers were assessed by a panel that included a Lived Experience Advocate (LEA). Although the CIJ and VLA initially agreed to the use of a more standard evaluation approach, including through the development of standard evaluation tools, the CIJ ultimately adopted a developmental evaluation approach. This was to allow for progressive implementation of the Model over an extended timeframe.

The shift in approach was largely a result of the circumstances surrounding the implementation of the Model, including the COVID-19 pandemic and the significant impacts that this had on the delivery of the Model; the way in which it could operate; and the pressure that it initially experienced. In particular, the pandemic impacted project activity and contributed considerably to delays and competing pressures on the Family Violence Program within VLA, where staff were also responsible for overseeing and supporting adapted family violence service delivery. Further, the Model was being delivered in a context never envisioned when it was first developed. In particular, the Model – which was conceived as an individualised, in-person approach to service provision – was initially delivered in a primarily online setting and then in a hybrid environment.

Implementation of the Model was therefore an iterative process, as judicial officers, court staff and practitioners alike grappled with the best way to blend online interactions with a court system that had historically relied on in-person appearances.

In addition, the pandemic was the catalyst for various other reforms to court services, which made some initiatives of the Model less relevant. To illustrate, initiatives that promoted ‘wayfinding’ became less important to implement because hearings were occurring online. Another example was the adoption by the MCV of more collaborative online processes, such as morning meetings, which had initially been expected to be a focus of the Model. Similarly, the MCV’s targeted focus on pre-court support during this time reduced some of the need for the Model to encourage parties’ negotiations before court, at least in some locations.

The delivery of the Model was also affected by wider reforms rolled out within the SFVC environment. The volume of reform meant that the Model had to compete with other activities for visibility, impacting the ability of stakeholders to understand and meaningfully apply it.

1.2.1.2 Revising the evaluation approach

Following the evaluation’s first round of data collection, including a survey of key stakeholders and in-depth reflection sessions with the core project team, a summary report was delivered in November 2021. Further data collection occurred throughout 2022 involving reflection sessions with the Project Steering Committee and site-based consultations to explore the perceptions of VLA and CLC staff working within the Model, as well as court staff, judicial officers, and relevant support services. This informed the interim evaluation findings report delivered in late 2022.

The findings of the interim report and participant views raised at reflection sessions, however, highlighted the need to revisit the evaluation focus and scope, to ensure that final evaluation activities could produce relevant and meaningful findings that were reflective of and appropriate for the current stage of the Model's implementation.

1.2.2 Summative evaluation

To confirm the scope of the final summative evaluation, the CIJ worked with VLA's Evaluation and Monitoring Working Group in late February 2023. The re-scoping workshop tested the purpose, scope and audience for the final stage of the evaluation. This included ensuring that any recommendations developed at later stages were predominantly focused on pragmatic steps that VLA could take to improve the ongoing operation of the Model and communicate its value. As such, while wider system challenges and opportunities were important to note, the project team and CIJ recognised that many were beyond VLA's capacity to influence.

1.2.3 Scope and limitations

An agreement was therefore reached that the final stage of the evaluation would be on understanding the Model itself – its activities, its barriers and enablers – as well as the *potential* of the Model to achieve intended outcomes and its *emerging* outcomes.

It was agreed that the evaluation would *not* cover the following out-of-scope matters:

- legal outcomes for clients who receive support through the Model;
- the Model's impact across related legal matters;
- the outcomes of referrals for practical and non-legal support needs;
- impacts of the broader SFVC context, including improvements to the physical court environment, changes to listing practices and access to Applicant and Respondent Practitioners; and
- economic or strict financial analysis, including a focus on cost efficiency in terms of identifying the 'least costly approach'.

As such, the evaluation sought evidence relating to early tangible and observable signs of change stemming from the Model across different SFVC sites, as well as the potential for the Model to achieve further change if existing barriers were addressed.

Although the evaluation included the contribution of LEAs with direct experience of family violence legal processes, as well as VLA administered surveys completed by clients of the Information and Referral Officers (IROs), a limitation is the absence of direct consultation with VLA or CLC clients by the CIJ during the evaluation period.

This was generally a result of the limited project resourcing and timeframes which also absorbed the changes in evaluation scope. It additionally accounted for the significant resourcing required to seek and secure the necessary ethical approvals associated with research conducted directly with clients or service users.

The primary reason for the absence of direct engagement by the CIJ with clients of the Model in the context of this specific evaluation is the challenge in attributing client experiences directly to their contact with the Model, as opposed to attribution to wider system and SFVC factors. Given that the National Statement on Ethical Conduct in Human Research requires that the risks of conducting research with vulnerable cohorts be outweighed by the benefits, the lack of clarity concerning attribution of the impacts of the Model did not necessarily meet this test.

1.2.4 Methodology

The CIJ chose to balance these pragmatic and ethical considerations by including the following streams of data collection, the final of which was previously out of scope. These included:

- Analysis of project documentation – including resources developed as part of training and education initiatives, client-facing resources and implementation progress documents;
- An analysis of VLA and CLC service data – including quantitative data collected by the IROs (collected between December 2022 – March 2024);
- Client surveys administered by VLA which asked clients about the nature of legal assistance that they were seeking; any other service support that they were seeking; and the nature of support that they received from the duty lawyer and IRO (35 in total);
- Case studies completed by IROs, as well as VLA and CLC duty lawyers (20 in total);
- Consultations (that ranged from 1 - 1.5 hours) with relevant stakeholders, such as:
 - The VLA Family Violence Program and other key VLA and CLC staff involved in the Model's implementation (12 in total)
 - LEAs involved in the Model's development (5 in total)
 - Court-based staff, including Applicant and Respondent practitioners, registry staff and SFVC managers (13 in total)
 - Judicial officers (3 in total)
 - Victoria Police lawyers and prosecutors (5 in total)
 - VLA and CLC duty lawyers (15 in total)
 - Non-legal support roles, including the IROs (6 in total) and ACE officers (2 in total) and
 - Lawyers from cohort-specific legal services (including Djirra and Women's Legal Service Victoria) (7 in total)
- A literature scan of the domestic and international evidence base regarding best practice legal service models in responding to family violence.

All activities were approved by RMIT's Human Research Ethics Committee No. 26559.

1.2.5 Context of the evaluation

The context in which the final phase of the evaluation was occurring is important to acknowledge. In Australia, the rate of women killed by an intimate partner increased by nearly 30 percent in 2022-23, compared with the previous year.³ At the time of report finalisation, 36 women had been named as being killed over the course of 2024 in Australia as a result of family violence.⁴ This alarming trend was identified as a national crisis and led the Commonwealth Government to convene an urgent National Cabinet meeting and to introduce a range of measures, including a "rapid review" of best practice measures to prevent violence against women and children.⁵

³ Australian Institute of Criminology, *Homicide in Australia 2022-23*, Report no.46 (2024).

⁴ The Red Heart Campaign, 'All That Remains', *Australian Femicide Watch* (Web Page, June 2024) <<https://australianfemicidewatch.org/database/>>.

⁵ Prime Minister of Australia, Anthony Albanese, *Working to end violence against women with rapid review into*

In Victoria, where family violence incidents have increased from 90,540 in 2021-22 to 93,115 in 2022-23,⁶ the state government recently announced a package of reforms aimed to prevent and respond to family violence.⁷ These reforms include introducing a minimum length for FVIOs, in an attempt to prevent affected family members (AFMs) in FVIO applications from having to return to court to apply for orders to be extended.⁸ Changes will also reportedly be made to the service of FVIOs, to try and ensure that AFMs have protective measures in place sooner, as well as to address the issue of perpetrators deliberately avoiding being served FVIOs on which they are listed as respondents.⁹

The government has also stated its intention to work with Victoria Police and the courts on a proposal to expand police powers to issue longer family violence safety notices (FVSNs) (noting expressed concerns around the lack of opportunity to address potential misidentification where matters are not brought before a court).¹⁰ The government will also seek advice from the Judicial College and Sentencing Advisory Council regarding more sentencing guidance for Magistrates in relation to respondents who breach FVIOs, “to ensure they are responding to community expectations.”¹¹

Of further relevance to this report is the announcement in May 2024 by the Victorian Law Reform Commission of its inquiry, “Examining Aspects of Family Violence Intervention Orders”.¹² The Inquiry will consider whether family violence laws should be reformed to:

- Specify a minimum default duration for final FVIOs; and
- Insert additional criteria for the variation or revocation of FVIOs.

The current landscape in relation to family violence-related deaths and incidents, both nationally and at a state level, is critical context when reading this report and understanding the significance of family violence informed public legal services, as envisaged by VLA’s Legal Practice Model. As will be explored further, legal services can be a pivotal first or subsequent point of contact for people experiencing or using family violence. When delivered in a client-focused, holistic way, they can connect people with crucial support and have the potential to change outcomes in relation to risk and safety.

prevention approaches’ (Media Release, 28 May 2024) <https://www.pm.gov.au/media/working-end-violence-against-women-rapid-review-prevention-approaches>

⁶ Crime Statistics Agency Victoria, *Family Violence Dashboard* (Web Page, June 2024) < <https://www.crimestatistics.vic.gov.au/family-violence-data/family-violence-dashboard>>.

⁷ Premier of Victoria, Jacinta Allan, *Changing laws and culture to save women’s lives* (Media Release, 30 May 2024) < <https://www.premier.vic.gov.au/changing-laws-and-culture-save-womens-lives>>.

⁸ Ibid.

⁹ Ibid.

¹⁰ Tuohy, W. & Eddie, R. (30 May 2024), “Domestic violence fix could be devastating for women, experts warn” <https://www.theage.com.au/national/victoria/victims-win-longer-protection-stronger-police-powers-in-new-dv-reforms-20240530-p5jhvu.html>

¹¹ Ibid.

¹² Victorian Law Reform Commission, *Examining aspects of Family Violence Intervention Orders – Terms of reference* (Web Page, 8 May 2024) < <https://www.lawreform.vic.gov.au/publication/family-violence-intervention-orders-tor/>>.

2 Key themes and findings

2.1 Project strengths

2.1.1 The Model provides client-focused support

Across the data sources, one of the strongest features of the Model that was consistently identified was its focus in providing client-focused support. This support involved duty lawyers and non-legal support roles, such as the IROs and ACE officer roles, proactively identifying and effectively responding to client needs. Responses occurred through provision of family violence informed legal assistance, appropriate and supported referrals, as well as through practical support provided on the day of court. The nature of this support is outlined in detail below.

2.1.1.1 Proactively identifying and responding to client needs

Family violence informed legal support

In providing legal services in the SFVC context, the foundation of the Model is its focus on providing high-quality, client-centred legal services that are accessible, safe to use and family violence informed. In particular, the evaluation found that duty lawyers involved in delivering these services have generally completed the Model's suite of training modules that address some of the complexities of family violence matters, such as modules about:

- working with clients from culturally and linguistically diverse backgrounds, including identifying and responding to family violence risk;
- working with First Nations clients, including identifying and responding to family violence risk;
- the intersection of family law and migration law as impacted by family violence;
- three in person Safer Families duty lawyer 'intensives', attended by 75 VLA and CLC practitioners working across a wide range of Victorian court locations.

While these training modules were not mandatory for VLA and CLC duty lawyers working across the five SFVC court sites to complete, many of the more junior lawyers involved in consultations had completed them as part of their induction. Generally, more experienced lawyers had less awareness of these modules, which will be discussed in more detail in section 2.1.3.1, although many of these practitioners had years of experience in family violence matters or had completed other forms of relevant training. More specifically, consultations with judicial officers indicated that some had observed an improvement in the quality of advocacy and consistency of approach in how duty lawyers were representing clients, as described in the quote below:

"I think the knowledge of the system and knowledge of family violence is vastly improved ... you can clearly see that there are separate family violence services within the duty lawyer streams, they are consistently the same people appearing and they have a handle on people appearing down the track ...".

(Judicial officer interview)

The case study below highlights an example of family violence informed legal support provided by a duty lawyer. This included identifying a client's intersecting legal needs; connecting the client with appropriate legal assistance and family violence support; and supporting them to understand their legal options and likely legal outcomes.

Case Study One – Supporting clients with intersecting legal needs

Melanie*¹³ a CLC duty lawyer, was representing Samira* who was an AFM in an FVIO application. Samira was concerned that her FVIO application against her partner would affect her visa status. Melanie supported Samira to understand her options and explained the seriousness of the allegations, as well as the likely outcomes of the matter. Melanie referred Samira to a culturally specific service for migration law advice and family violence support. An adjournment was sought so that Samira could consider her options and reach an informed decision about her preferred course of action.

Another key skill in family violence informed duty lawyering under the Model is legal advocacy in cases of AFMs being misidentified as respondents. Practitioners described this as generally arising in cases of cross-applications, where the respondent listed on an AFM's FVIO lodges an FVIO application against the AFM, alleging that the AFM was perpetrating family violence against them. This suggests that misidentification is occurring frequently as a form of systems abuse, in addition to being the result of systemic drivers where women are misidentified as predominant aggressors by police.

Other forms of systems abuse commonly raised by lawyers in consultations and case studies involved respondents manipulating family law proceedings to punish the AFM or drain their financial resources, with this often occurring in parallel to FVIO proceedings in an SFVC. These forms of systems abuse were described as sources of significant distress for AFMs, often both psychological and financial, and required dedicated and consistent advocacy to have FVIO cross-applications withdrawn or orders varied.

Case Study Two – Supporting an AFM experiencing systems abuse

Helen* was a VLA lawyer representing Nicole*, an AFM who had also been misidentified as the respondent in a cross-application by Michael*, her ex-partner. Michael was subject to a final 'no contact' FVIO protecting Nicole and their three children

Michael was then successful in obtaining an interim 'no contact' FVIO protecting himself and their children. As a result, both Michael and Nicole would be in breach of the respective FVIOs if the children lived with either of them. Michael also lodged family law proceedings against Nicole in parallel to the FVIO application.

Nicole's lawyer Helen negotiated with Michael's lawyer to vary the interim order. Michael later reneged on the variation and the court refused to make any variations, as no formal application for leave to vary had been made by Nicole.

Nicole was supported by Helen, who drafted an application for leave to vary the order and provided Nicole with duty lawyer assistance. At court, Helen outlined the long history of family violence and the abuse of process used by the respondent. The application for leave was granted and the order was revoked, enabling the children to remain in Nicole's care.

¹³ *Names have been changed throughout these de-identified case studies provided by VLA to protect the privacy of VLA and CLC clients and legal practitioners.

A further important example of the family violence informed legal assistance provided under the Model is the way in which duty lawyers can support respondents to engage in suitable programs as part of the conditions on the relevant FVIO. This is outlined in the case study below.

Case Study Three – Supporting a respondent to engage in a suitable MBCP

Mario was the respondent to a FVIO for which the Police had applied to protect his adult daughter, Emilia. The court made a final ‘no-contact’ order which prevented Mario from contacting her or returning to the house in which they lived together.

Mario was elderly and had agreed to the final order for a period of five years without fully understanding the consequences. Emilia wanted him to return home and applied to vary the order to a ‘safe contact’ order which would allow him to do this.

Mike, a duty lawyer, assisted Mario at the hearing. Mario had also been found guilty of criminal offences in relation to his behaviour and had been sentenced to a Community Corrections Order (CCO), which he had not yet completed. The Police Prosecutor told Mike that, because of the serious allegations, they would not agree to vary the FVIO until Mario completed a 16-week behaviour change program to address his behaviour. Mike explained that Mario was already linked in with a behaviour change program through his CCO. Mike advocated for Mario to be able to complete this shorter 10-week program instead of an additional 16-week program. The Police agreed to this.

Mario successfully completed the 10-week program and the Police confirmed that they would support the FVIO being varied to a ‘safe contact’ order. On this basis, the Court made the variation. Mario and Emilia were reportedly very happy with this outcome and the legal assistance that they received.

A survey of duty lawyer clients was administered by VLA as part of the Model's focus on continuous improvement. Responses highlight what these clients found helpful about the support that they received from their lawyer, indicating the value of specialist legal support in this context:

“The honesty and respect shown to me. The encouragement and the ability to honestly state my wishes without any persuasive techniques used in any way.”
(Client One)

“The non-judgmental approach and explanation of what was happening.”
(Client Two)

“Not having been in court before, staff helped me feel more comfortable and relaxed and explained the process clearly.”
(Client Three)

Information provision and referrals

Another way in which the Model provides family violence informed legal support is the way in which the non-legal support needs of clients are identified and addressed. The function of the IRO roles across the five court sites, as well as the ACE officer role (which was in existence at the Shepparton and Ballarat courts during the evaluation period, noting that the role was not always filled), was critical in achieving this objective. This is partly because information provision, practical support and the making of supported referrals is central to the function of both roles.

Consultations with IROs, ACE officers, legal practitioners and the project team, as well as data from case studies completed by the IROs, indicate the breadth of support needs with which clients are commonly presenting at court. These data sources also indicate the ways in which these were identified and responded to by the IROs and ACE officers, with examples including:

- Providing administrative support for clients making Centrelink and NDIS applications;
- Making non-legal referrals for services, such as housing services, financial counselling, mental health services, family services and family violence services;
- Making legal referrals for areas of law, such as family law, migration law, property law and criminal law;
- Providing practical advice to clients about court etiquette and procedure, such as how to address the Magistrate; what clothing was suitable to wear in the courtroom; the location of the nearest food outlet and public transport; and
- Providing emotional support to clients who were in distress, such as sitting with them as they waited for their matter to be called; bringing them a cup of tea or water; listening to them; and treating them with care and respect.

Importantly, in locations such as Ballarat, the IRO often received client referrals (generally from The Orange Door) before the client's first court hearing. This enabled the IRO to engage with the client – introducing themselves and providing the client with practical information around their upcoming court appearance and what to expect.

It also enabled the IRO to identify in advance whether clients had any support needs with which the IRO could assist via referrals. This could reportedly alleviate some of the nerves and anxiety that a client was feeling about the court process; connect them with support services; and provide them with a familiar contact who they could seek out again on the day of the hearing.

Similarly, an ACE officer described examples of the way in which they sought to engage with clients before their first court hearing to provide this support. This included speaking to clients in the cells at court, or by doing outreach at local Aboriginal Community Controlled Organisations (ACCOs) which promoted their role and could result in pre-court referrals. The function of this role is similar to that of the Court's Umalek Balit program, staffed by Koori family violence practitioners, who provide culturally appropriate legal and non-legal support for Aboriginal and Torres Strait Islander people seeking family violence legal assistance.

The IRO and ACE officer roles were often referred to as the "missing link" in the SFVC environment.¹⁴ While court funded roles such as the Applicant Practitioners and Respondent Practitioner were acknowledged as critical in the specialised and family violence focused support that they can provide to court users, the IRO and ACE officer roles were regarded as filling an important gap because of their additional breadth and flexibility beyond issues relating to immediate safety and risk.

Here the evaluation team notes that the intention behind the Applicant Practitioner role is to provide safety planning, conduct risk assessments and receive referrals, while the focus of the Respondent Practitioner role is on triaging high-risk clients, assessing clients for court mandated counselling programs and encouraging them in other ways to take accountability for their behaviour. The evaluation team heard, however, that these court-employed roles can be at capacity and are therefore more limited in their scope to respond to broader client needs.

¹⁴ We note here that observations from ACE officers have been paraphrased, rather than directly quoted, in this report, given that their small number could potentially be identifying.

2.1.1.2 Potential for improved client-experience

Potential to contribute to improved client safety

By providing client-focused, family violence informed legal and non-legal support to clients, the evaluation found that the Model has the potential to contribute to improved client physical and psychological safety. As highlighted above, the Model could provide AFMs with a safer experience at court in a variety of ways, including: by identifying and responding where clients had been misidentified as respondents; by providing support in matters involving complex intersecting legal needs; and by making appropriate, supported referrals. This support received through the Model could in turn contribute to increased safety for AFMs in the community.

Examples raised across the data sources which highlight this include:

- IROs connecting AFMs who had been subjected to technology-facilitated abuse with an organisation that provided them with free, new mobile phones that were not able to be traced by the respondent;
- IROs making warm referrals for AFMs to specialist services and supporting these referrals with additional context and documentation relating to the client's legal matter and presenting needs, such as financial abuse, the conditions of any orders or legal outcomes;
- IROs supporting AFMs to connect with service providers in cases where the AFM had moved suburbs, such as identifying, contacting and following up with services and providing them with relevant documentation and information with the client's consent;
- Duty lawyers and IROs referring AFMs to the Applicant Practitioner for safety planning and risk assessment;
- Duty lawyers engaging in negotiation and advocacy in cases involving AFMs being misidentified as perpetrators of family violence, to ensure that they are instead accurately recognised as victim survivors and that suitable protective measures can be sought;
- Duty lawyers referring clients with additional legal needs to legal assistance, e.g., family law or migration law advice, particularly as these areas are impacted by family violence;
- Duty lawyer advocacy including details about patterns of behaviour and the existence of any previous or existing orders to which the other party is subject to ensure that the Magistrate has a complete understanding of the circumstances of the client, as well as factors such as risk and previous offending;
- IROs connecting AFMs with representation by private legal practitioners in instances where both VLA and the local CLC could not represent them because of legal conflicts;
- IROs coordinating interpreters for AFMs to ensure that the AFM could meaningfully participate in the legal process; understand the outcomes; and any support available to them; and
- IROs arranging for AFMs who are feeling unsafe or anxious about sitting near the respondent at court (in courts without dedicated safe waiting areas, or in situations where the AFM was unaware of the existence of the safe waiting area), for the AFM to be moved to the safe waiting area, or another suitable safe location.

Case Study Example - IRO support contributing to safety improvements for AFM

Tom^{*15} referred Polly* to speak with Sarah*, an IRO, as she was seeking a referral for family law advice. While making this referral, Polly also told Sarah that she was concerned about her mental health, financial security and the wellbeing of her children.

Sarah encouraged her to reconnect with the case manager at a family violence service with which she had previously been engaged and also provided information and referrals to obtain financial support. This included arranging a payment plan with her children's school, applying for the Utility Relief Grant Scheme and the Escaping Family Violence Payment.

In addition to the above measures, the evaluation found that the information and referral support provided to respondents has the potential to contribute to an increase in respondent engagement in the legal process. Related to this, it can improve respondent accountability and likely compliance with any FVIO. This will be discussed in more depth below and is a vital component of the Model's ability to contribute to the improved psychological and physical safety of AFMs.

Potential to contribute to increased accountability for respondents

The support provided by duty lawyers, the IROs and ACE officers, as well as Respondent Practitioners, is critical to the extent to which the Model can contribute to accountability for respondents. The role of the IROs was found to be particularly pivotal, given that the consultation, case study and quantitative data indicates that the provision of non-legal support to respondents makes up a significant proportion of their work. This work complements the critical support provided by Respondent Practitioners, including their role in assessing respondents' eligibility for court mandated counselling or treatment programs.

Consultations with practitioners working in these respective roles indicated that, unlike many AFMs, respondents are often not engaged with service system support when they first present at court. It was explained that respondents therefore commonly present at court in a heightened state of crisis. In many cases this is because they have been ordered to leave the home and are living in unstable accommodation, or are otherwise sleeping rough, while they may also have a range of other related material needs for which they require urgent support.

As previously discussed in section 2.1.1.1, IROs and the ACE officers address these needs through referrals for services, such as housing, mental health and alcohol and other drug (AOD) services. These referrals and practical support provided on the day of court can then contribute to improvements in the respondent's mental health and, relatedly, in their capacity to engage with the court process and its outcome. In some cases, non-legal roles were an ongoing point of contact, with some observing that a respondent's attitude towards, and understanding of, the FVIO process had improved over the course of multiple court hearings.

“... clients can be quite frantic and suicidal at the beginning. It's good to see them understanding ... by the third or fourth [attendance] some growth and that they're in a better place than when they started because of our support.”

(IRO consultation)

¹⁵ *Names have been changed throughout these de-identified case studies to protect the privacy of VLA and CLC clients and legal practitioners.

Other examples provided by the IROs included them being told by their clients that, if not for their support, the respondent would have disengaged from the court process and would not have attended the next hearings, or engaged with service supports, such as AOD counselling.

“I’d referred [a client] for drug and alcohol counselling, and he had seen the counsellor before he had to go back for the next court hearing, and he said if you hadn’t ... helped, I wouldn’t have done it. And ... I think police revoked the application on the day because he was seeking alcohol support.”

(IRO consultation)

A further example was raised by an ACE officer, who explained that they would often accompany respondents (at their request) while the respondents met with their duty lawyer, before and after court hearings. In some cases, it became clear after the meeting that the respondent had not understood the advice that the lawyer had given them, or the outcome of the hearing.

In these cases, they were supported by the ACE officer to seek clarification from the lawyer or the court about the nature of the advice and/or the outcome of the hearing. Here the evaluation team notes that ACE Officers emphasised the benefits of the diversity and adaptability of their role – responding to different matters, working with a variety of clients and engaging with a range of services on any given day.

The other examples highlight the critical function of the IRO and ACE officers in potentially contributing to an improved sense of engagement and understanding in respondents. By having their non-legal support needs identified and addressed, respondents could be in a less heightened state at court.

This in turn could increase the likelihood of them engaging with the legal process; understanding the legal advice that they receive; the outcome of the court hearing and the conditions of any orders made. All of these improvements could potentially contribute to an increased accountability and compliance for respondents and the associated safety of AFMs.

Case Study Example - IRO contributing to improved court experience for a respondent

Anika*,¹⁶ an IRO, noticed a client sitting in the court waiting area who appeared anxious and distressed. Anika introduced herself to the client, Stephen*, who told Anika that he had been waiting at court since 9.30am but had not yet spoken with a lawyer.

Anika coordinated with the duty lawyer, Rachael*, for Stephen to be prioritised with the registry so that Stephen’s matters could be consolidated. Anika also supplied Stephen with a cup of water, noting that safety concerns had resulted in the free water source in the general waiting area of the court being removed.

Stephen was described as less agitated because of this assistance and expressed gratitude for Anika’s support.

¹⁶ *Names have been changed throughout these de-identified case studies to protect the privacy of VLA and CLC clients and legal practitioners.

2.1.1.3 Engagement with Lived Experience Advocates

Another key feature of the Model's approach was its engagement and collaboration with Lived Experience Advocates (LEAs) during the Model's design, establishment and, crucially, its governance. The LEAs with whom the CIJ consulted (who had all been AFMs in their family violence matters), felt that their input was sought across all stages of the Model's inception and governance. They described this process as respectful and supportive, with the result being that they felt genuinely included and that their contribution was having a meaningful impact.

“Demystifying the process for other victim survivors is really empowering and rewarding ... it's trying to remove the stigma that victim survivors can feel ...”

(Lived Experience Advocate consultation)

The LEAs consulted also provided positive feedback about the flexibility of the engagement process, as the project team enabled them to attend meetings remotely if required. This was found to be of particular importance given that many of them had primary or sole caring responsibilities for their children or were the primary income earner of their household (in many cases, often as a result of experiencing family violence). Relatedly, the LEAs told the CIJ that they felt they had been suitably remunerated for their contribution and that expectations about the engagement process were established from the outset.

“It's trauma informed and also means that they're going to get the best service design and supports happening for service users, and also for legal practitioners, so it's a win, win, win all around.”

(Lived Experience Advocate consultation)

The role of the LEAs was found to be of particular importance in the development of the information resources for court users. Their input informed the *'Going to court – how to plan for your day'* video, which in turn incorporated information that the LEAs said that they wish they had known before their own court experience. This included information such as what to bring to court (e.g. water and snacks given that waiting times can often be extensive); what to wear (e.g. to bring a warm layer in case it gets cold) and other practical advice about the day of the hearing. The *'Going to court'* video also features quotes and the main narration provided by LEAs.

In late 2022, the project team conducted an Expression of Interest process to seek the input and feedback of a broader spectrum of lived experience advisors on this video, as well as two other videos which are in development. This includes one about getting public legal assistance from duty lawyers at court, and the other about FVIO hearings more generally. This process was supported by InTouch, Safe Steps, LGBTQIA+ Legal, and Reinforce Disability, amongst other organisations.

The process involved the Family Violence Program running 'story building workshops' with participants to learn about their own experience of court and what they would like to have known about the process beforehand.

The video scripts and storyboards were also shared with participants, and their input was sought and responded to over several rounds of feedback. Importantly, this process also involved two sessions facilitated by No to Violence to include the contribution of people who had used family violence.

The Family Violence Program had also hoped to speak with clients from other specialist legal services. These organisations had been unable to participate, however, because of limited capacity and competing resourcing priorities.

2.1.2 The Model can improve coordination between stakeholders

Another pillar of the Model is its objective of improving coordination between stakeholders working across the SFVC environment. The evaluation identified that measures against this objective had improved since the interim evaluation period. This was evident in consultations with legal practitioners, including VLA and CLC duty lawyers, principal lawyers and regional managers, as well as with IROs, ACE officers and the ACE manager. Consultations with court-based roles, such as judicial officers, SFVC managers, registry, as well as Applicant Practitioners and Respondent Practitioners, also provided numerous examples of coordination and productive working relationships between stakeholders across the five SFVC court sites.

2.1.2.1 Coordination between legal and non-legal roles

VLA and CLC duty lawyers

Across the five court sites, it was reported that CLC and VLA legal practitioners have strong working relationships, involving open communication and collaboration. Here we note that some legal practitioners explained that turnover in duty lawyer services, either because of staff leaving the role or moving to another area of legal practice, could mean that new relationships had to be continually established. The evaluation heard, however, that this was generally quickly achieved and that connections nevertheless remained strong at an organisational level.

One example of this is the way in which VLA shares and promotes the training and education modules developed under the Model with the CLCs that are servicing the SFVCs. A further example of the close working relationships that can exist between VLA and CLC lawyers was highlighted by a legal practitioner working in a regional location.

“Well [regional location] is a big place, but also a small place, you know, and I think it’s because it’s the same practitioners doing the work, so you naturally build relationships with them. I also feel like VLA and our CLC has a good relationship in general.”

(CLC lawyer consultation)

Duty lawyers and IROs

The evaluation team found that the coordination between VLA and CLC duty lawyers servicing the five court sites and the IROs and ACE officers had improved since the interim evaluation of the Model in late 2022. These coordinated ways of working included duty lawyers referring their clients to the IRO and, in the case of Shepparton and Ballarat, to the ACE officer, for the support outlined in the above sections.

As previously discussed, it was also evident that a key function of the IRO role is making external referrals for clients who may have intersecting or additional legal needs. These referrals may have been to the local CLC where VLA was conflicted out of representing a client, or to private practitioners if both VLA and the local CLC were conflicted.

Generally, the working relationship between IROs and duty lawyers was described very positively. In some courts this was reportedly a result of the IROs and duty lawyers sharing an office space, although the evaluation found that the working relationship between IROs and the CLC lawyers had taken more time to develop. Reasons suggested for this included:

- A perception that, because the IRO is an employee of VLA, they are not an independent source of support for CLC clients;
- The CLC duty lawyer office in some courts being in the applicant safe waiting area, which is in a different area to the IRO office;
- In locations where CLCs had capacity to engage in Pre-Court Engagement, their clients may already be linked with services, meaning that referrals on the day of court to the IRO are not as necessary; and
- High staff turnover in some CLCs mean that IROs need to reintroduce their role and establish new relationships.

These factors were also identified in the interim phase of the evaluation, but it was found that the relationships had strengthened in the final phase of the evaluation. This was because of strategic work done by the project team, as well as work by IROs on the ground at court to promote their role and to clarify its scope and independence. This work included developing a lanyard for the IRO to wear at court which identified them; flyers which the IRO could distribute to lawyers and clients; and posters on display at court about the IRO role.

“Our interaction with the IRO is now really positive, but it took a while to get over the hurdle of conflict thinking.”

(CLC lawyer consultation)

2.1.2.2 Coordination between all court stakeholders

Court staff

The final stage of the evaluation also found that the level of coordination between those employed within the Model and wider court stakeholders had generally improved since the interim evaluation. In consultations with court staff, including SFVC managers, registrars and Applicant and Respondent Practitioners, it was generally reported that they had productive working relationships with the VLA and CLC duty lawyers, the IROs and, in Shepparton and Ballarat, the ACE officer.

Registry staff expressed positive feedback about the value of the IROs, not only for their individual registry role but for broader court operations. This was because of the information provision and referral support that the IROs provide to clients, as this can lighten the administrative load on the registry and improve the capacity of duty lawyers to see more clients.

“From our point of view, [the IRO] puts the information where it needs to go ... she’s very proactive around the duty lawyer space as well in terms of if a private practitioner is required as well, or linking people in with the liaison officers, and keeping registry updated ... it’s a great resource.”

(Court staff consultation)

In some locations, registry reported that their working relationship with the IRO had been negatively impacted where an IRO was working remotely. This in turn meant that registry staff were less familiar with the person who was employed in the role. The project team confirmed that the IROs predominantly work on site at court, with some also working one day a week from The Orange Door or another SFVC location. The project team also clarified that the IROs are also offered one day a week working from home to support their wellbeing, while there are also IROs who work part-time, all of which could explain this particular feedback.

The evaluation heard that the extent of coordination between stakeholders working in the court environment could also be improved by wider SFVC measures, such as the morning stakeholder meetings, multi-disciplinary days, the coordination tool and online chat function. It was found that these measures can provide important opportunities for the IROs and ACE officers to promote awareness about the scope and function of their roles, as well as to communicate with registry staff, the Applicant and Respondent Practitioners, as well as Victoria Police.

Applicant and Respondent Practitioners

The working relationship between the IROs, the ACE officers and the Applicant and Respondent Practitioners was also generally found to have improved since the interim evaluation. The evaluation heard that, when the Model was first implemented and the non-legal support roles were still being established, misunderstanding could arise around the scope of these roles and the potential for them to overlap with, or infringe upon, the Applicant and Respondent Practitioner roles.

As was the case with CLC duty lawyers, the measures adopted by the project team following the interim evaluation to promote these roles and clarify their function appeared to have resulted in an improvement in understanding amongst Applicant and Respondent Practitioners. This is highlighted in the below quote from a Respondent Practitioner:

“[The IRO] really respects that my role is different, mine’s focused on risk, hers is not. She does a lot of referrals, she links people in with the Orange Door and housing services, which takes a load off me if it’s not a high-risk case. She’s very happy to accept a referral, or she will send someone to me who needs additional family violence high risk services.

And if I need to communicate anything to a duty lawyer and I can’t find them, I definitely find our IRO and she will help me pass it on.”

(Respondent Practitioner consultation)

Victoria Police

Similarly, the working relationship between Victoria Police and the legal and non-legal roles operating under the Model had generally strengthened since the interim evaluation. In consultation with Victoria Police, one prosecutor explained that they had met the local IRO at the court's multi-disciplinary day after often seeing the IRO's name on correspondence at court. After learning more from the IRO about their role, the prosecutor described it as "invaluable to people who require assistance" and observed that both AFMs and respondents appeared to have positive interactions with the IRO in relation to support that is available and can be obtained.

Another prosecutor became aware of the ACE officer based at the Shepparton SFVC once the ACE officer had introduced themselves shortly after they started in the role. The prosecutor described the ACE officer as "friendly and helpful" and endorsed the morning court meetings as a good opportunity to become aware of the non-legal support roles in operation at court.

The evaluation team also heard broadly positive feedback from Victoria Police about their working relationship with VLA and CLC duty lawyers across the five court sites. Once again, the morning meetings were identified as beneficial in terms of engaging with duty lawyers and, as one prosecutor described, "starting the day off on the right foot". VLA and CLC duty lawyers were also generally found by Victoria Police to be approachable and contactable.

Wider service system environment

The evaluation also heard examples of initiatives used to establish and strengthen relationships between the non-legal support roles and wider support services. One involved the IRO and duty lawyer visiting No to Violence to present an information and training session to practitioners from member organisations on family violence matters, the SFVC environment and the IRO role. After this session, the IRO was contacted by a practitioner who requested support for a client who had an upcoming court date. The court date was not a usual court date that the IRO would attend, but they agreed to meet with the client and provided practical support to them on the day.

One ACE officer also described themselves as a "door knocker", explaining that they would regularly do outreach at local Aboriginal Community Controlled Organisations to establish and build relationships, which could in turn result in pre-court referrals for clients. Importantly, the ACE officer also reported that they had a strong relationship with the local Umalek Balit practitioner and often collaborated to respond to the needs of First Nations clients.

Both examples highlight the flexibility and adaptability of the non-legal support roles. Practitioners in these roles told the evaluation team that these features provided significant value to their ability to establish themselves in the role and familiarise themselves with their specific court and service system environment, as indicated further in the quote below:

"I think one thing that I found really helpful in the role is that we were really given the latitude to kind of develop it to our own specific areas in ways that meet the needs of our own like locations.

That flexibility has been really helpful, and we've been able to identify what's important in our area and then build the relationships that we need to with these specific services."

(IRO consultation)

2.1.3 The Model has a focus on training and education

A further fundamental objective of the Model is its focus on developing training and professional development resources to support best practice duty lawyer services in the SFVC environment. The evaluation found that the implementation of these resources had significantly increased since the interim evaluation, with positive feedback from those who had engaged with them.

Related to its focus on best practice, the Model also developed client-focused resources designed to provide information about the court process and available legal options to people seeking family violence related legal assistance. As noted in the Scope and limitations section, although the CIJ did not engage in direct research with court users who had accessed the services provided under the Model, the CIJ reviewed VLA administered surveys that had been completed by clients who had accessed the services of the IRO. While the feedback provided in these surveys did not directly include reflections on the client-facing resources developed under the Model, the section below outlines observations and feedback that was provided about these resources by other stakeholders who have contact with court users.

2.1.3.1 Training and education resources

Training modules developed

Since the interim evaluation was conducted, a range of training and education resources have been implemented as part of the Model. These have included training modules for legal practitioners, as well as other practitioners working in the SFVC environment, such as:

- Two new Client Safety Framework modules, to help staff identify safety risk indicators and respond appropriately in a family violence context, with a focus on:
 - working with culturally and linguistically diverse clients
 - working with Aboriginal and Torres Strait Islander clients;
- A module on the intersection between family violence and migration law; and
- General family violence learning and development training.

The project team explained that the existing modules had also been subject to internal evaluations to identify how they could be improved and to inform the development of new modules.

Training modules still in development

The project team also told the evaluation that they have various further training initiatives in progress, including:

- Developing a Client Safety Framework module on working with LGBTQIA+ clients (to be completed in late 2024);
- Developing training in relation to working with young people identified as respondents; and
- Developing training around other legal needs such as infringements, tenancy and social security.

Related training and education initiatives

Other related resources have also been developed and implemented as part of the Model, including:

- The SFVC Best Practice Framework – a professional guide to support lawyers to deliver high quality, trauma informed and culturally appropriate family violence services;
- Interim duty lawyer guidelines training – to support lawyers to apply new SFVC guidelines that expand the level of assistance provided to clients;
- Referral guides (including a specialist CLC referral guide and Moorabbin family violence services referral guide) – with comprehensive guidance on how to make appropriate referrals to legal and non legal services;
- A Safer Families Duty Lawyer Intensive training (run by Women’s Legal Service Victoria) – to support newer duty lawyers to provide high quality, effective legal assistance and representation to family violence clients. This involved three sessions with VLA and CLC duty lawyers, a mock court day, and a judicial officer in attendance at two of the sessions; and
- A Professional Legal Education session ‘*Specialist Family Violence Court: perspectives from VLA and CLC duty lawyers*’ to support staff about to commence working in an SFVC environment.

The VLA FV Program team have also engaged in broader program work, such as:

- Amended family violence grant guidelines to provide a grant of aid to women and LGBTIQ+ respondent clients who have been mis-identified as the predominant aggressor of family violence by police; and
- A practical legal education resource on representing child respondents in FVIO and PSIO matters.

Positive feedback on training modules

The feedback on these resources from the lawyers, court staff and the non-legal support roles who had engaged with them was generally very positive. One SFVC manager was aware of the resources as part of a broader shift to becoming a specialist court and described this as involving staff “upskilling in family violence”. Another practitioner in a non-legal support role found the breadth of VLA resources available, as well as their focus on avoiding vicarious trauma in practitioners, to be valuable to their role and professional development.

A junior duty lawyer highlighted the value of the training modules being in video format, as they could re-watch them at any time, such as before appearing in court. Notably, a CLC reported that they had also found great value in the modules and was considering including them as part of their duty lawyer induction process. This is highlighted in the quote below.

“[The modules] provide that foundational awareness and knowledge, and kind of expands ... those soft skills staff develop whilst working in our team.”

(CLC consultation)

Observations were also made by judicial officers that indicated the potential impact of these training initiatives on the quality of duty lawyer advocacy. One judicial officer reported that there had been a noticeable improvement in submissions made by duty lawyers at the court at which they were based.

Examples included lawyers often having information readily available upon the judicial officer's request, as well as usually having knowledge of important context surrounding the matter, such as whether orders had been made against the respondent in the past; whether there are family court orders in place; and other patterns of behaviour that may be relevant.

This judicial officer also noted that it was particularly commendable for duty lawyers to have this contextual knowledge and understanding, given the significant volume of matters that most duty lawyers are managing on any given day. It was also suggested, however, that this level of advocacy may potentially be a result of duty lawyers who had developed experience after having been in the role for at least six months, rather than as a direct result of them completing the professional development and training modules developed under the Model.

Promoting awareness of training and education initiatives

The measures described above are in keeping with the interim evaluation's recommendation to "ensure that those working within the Model have the knowledge and skills to perform their roles". Since the interim evaluation, the project team have also engaged in strategies in response to the recommendation to "develop knowledge by promoting available training through existing communication channels", such as promoting the Model at the SFVC Steering Committee in January 2024 and circulating SFVC project updates to project working groups.

The evaluation found, however, that the awareness of the training modules and other education resources amongst lawyers and those working in the non-legal support roles could still improve. As previously identified, cohorts who had the greatest engagement with these resources were generally more junior legal practitioners or those who were otherwise new to their roles and had completed them during their induction process. This contrasted with more limited awareness amongst more senior legal practitioners.

This finding highlights the need for the training and education resources developed as part of the Model to be continually promoted and shared across a range of channels and in a range of formats. This finding is addressed further in the evaluation's final recommendations in section 3.

2.1.3.2 Information and education for court users

Existing information resources developed

Another key component of the resources developed under the Model includes information for court users. Since the interim evaluation, the following resources and initiatives have been finalised and published:

- A video titled '*Going to court for an FVIO*' (published in November 2023);¹⁷
- A webpage titled '*Family violence and family violence intervention orders*' (published in November 2023);¹⁸ and
- A webpage titled '*Getting a lawyer for cross-examination in a FVIO hearing*' (last reviewed in November 2023).¹⁹

The project team has also developed related resources for court users, including:

¹⁷ Victoria Legal Aid, *Going to court for an FVIO* (Web Page, November 2023) <https://www.youtube.com/watch?v=FmS5b8eQ_QI>.

¹⁸ Victoria Legal Aid, *Family violence and family violence intervention orders* (Web Page, November 2023) <https://www.legalaid.vic.gov.au/family-violence-and-family-violence-intervention-orders>.

¹⁹ Victoria Legal Aid, *Getting a lawyer for cross-examination in a FVIO hearing* (Web Page, November 2023) <https://www.legalaid.vic.gov.au/getting-lawyer-cross-examination-family-violence-intervention-order-hearing>.

- The My Safety Tool, an online tool that helps people plan for safe separation and understand their options when experiencing domestic, family and/or sexual violence (last reviewed in January 2024);²⁰
- The Legal Help Webchat pilot, which trialled providing legal advice by lawyers over webchat to people experiencing or using family violence;²¹
- Refining the Safe at Home resource, a guide for people experiencing family violence (currently available in English, with updated translated versions in Chinese, Arabic and Vietnamese to be finalised in late 2024);²²
- Legal Help enhancements toolkit, to assist VLA's Legal Help staff provide more tailored and trauma-informed family violence phonenumber and webchat advice and information; and
- Updating VLA's suite of family violence web pages to be easier for clients to find information and in accessible language (in part based on feedback provided by Lived Experience Advocates).

These resources were promoted via strategies such as a presentation to the Victim Survivors' Advisory Council and an article published on the VLA website.²³ Further, the project team are also reportedly working with Victoria Police and the MCV to identify whether links to some of these resources can be embedded in documents (such as via a link or QR code) that Victoria Police and the MCV are sharing with court users, as well as whether the videos can be shown on screens at SFVC court sites.

Resources in development

A range of other initiatives are also in development, such as:

- Two videos about the nature of an FVIO hearing and accessing duty lawyer services in an FVIO hearing (both in animation format, reportedly to be completed in late 2024); and
- Developing Auslan versions of the videos (to be completed by end of 2024).

The project team explained that, once the full suite of these videos is finalised and published, they will be promoted through social media campaigns, which can be a cost-effective way to expand their audience and maximise their impact.

Areas for improvement

Although the project team has engaged in initiatives (identified above) to promote the existing court-user focused resources developed under the Model, the evaluation heard that awareness of these resources could improve not only amongst practitioners, but court users themselves. Further, the project team acknowledged that its objective of engaging a broad range of clients who had lived experience of family violence in the development of the client-facing videos had taken longer than anticipated.

²⁰ Victoria Legal Aid, *My Safety Tool* (Web Page, January 2024) <https://www.legalaid.vic.gov.au/my-safety>.

²¹ Victoria Legal Aid, *Piloting the use of webchat family violence legal advice* (Web Page, June 2023) <<https://www.legalaid.vic.gov.au/piloting-use-webchat-family-violence-legal-advice>>. ; Victoria Legal Aid, *How to start a chat* (April, 2024) <https://www.legalaid.vic.gov.au/speak-to-us#how-to-start-a-chat>.

²² Victoria Legal Aid, *Safety at home: How to get a family violence intervention order (English)* (Booklet available in electronic format, April 2024) <https://www.legalaid.vic.gov.au/safe-home-how-get-family-violence-intervention-order-english>.

²³ Victoria Legal Aid, *New video helps clients plan before court for family violence issues* (Web Page, November 2023) <<https://www.legalaid.vic.gov.au/new-video-helps-clients-plan-before-court-for-family-violence-issues>>.

This was because of the work being time intensive, as it includes multiple layers of review and feedback. The evaluation team heard that this was also a result of the process being initially under-quoted, which led to further re-quoting and planning.

Given that a significant proportion of VLA clients are respondents, it is discouraging that respondent-focused resources were not prioritised and that more are not yet developed. This was illustrated by feedback from the stakeholder consultations with legal practitioners, the IROs and ACE officers, judicial officers and court-based staff, all of whom generally observed that respondents appear to have little prior knowledge of the FVIO process, or court processes more broadly, before first appearing at court.

As noted above, practitioners working with respondents suggested that this may be a result of respondents often being in a crisis state when they attend court (which in some cases can involve them not having access to a charged, internet connected device), and therefore being unlikely to have accessed legal information online before their first hearing. In the limited number of cases where practitioners observed that respondents did have prior knowledge about the court process, this knowledge was often inaccurate or misguided, as outlined in the quote below:

“I find that most people with any information they’ve taken in prior to court is like really low-quality pseudo legal information from obscure websites, or, you know, just from talking to family or friends, so they get kind of mixed bag of what’s likely to happen ...”

(IRO consultation)

Some practitioners, however, observed that this prior knowledge could occasionally have been a result of respondents (and AFMs) engaging with VLA resources, such as the Legal Helpline or Legal chat. Notably, early referral to VLA is also available via the Pre Court-Information Form, and referrals can also be made to the Respondent Practitioners. One SFVC manager noted a specific gap in the prior knowledge held by respondents:

“I think victims of family violence have a little bit more of an understanding than respondents because our team [registry] have dealt with them at the initiating process. So, we sort of explain that process and what to look out for and what might happen and what to expect ... And if the police are applying on behalf of someone, then usually they’ve got dedicated liaison officers that speak with them about the process. Whereas the respondent just shows up, they’re served an application or an order that they don’t understand, and they just come to court. There’s [not really] follow up after that ...”

(SFVC manager and registrar consultation)

Examples were raised by other practitioners which further highlight the value of respondents receiving pre-court information. This included one instance reported by an IRO where a respondent had not realised that they had just been speaking to a duty lawyer and did not understand the advice that they had received.

Practitioners also described common examples of respondents having no knowledge of court etiquette; what to expect from the overall process, or their role and involvement; nor any understanding of the legal and other supports available.

A Respondent Practitioner explained the significant value of addressing this gap and ensuring that respondents receive appropriate pre-court procedural information and advice, particularly given the potential for respondents to feel alienated by the system and FVIO process:

“ I just think sometimes ... respondents are left a little bit behind and sort of [left to] deal with [it]. Whereas like they need support too ... and we need to ... understand and address the trauma around their use of violence to be able to then try and work to help them, either to reduce or cease their use of violence”.

(Respondent Practitioner consultation)

Similar issues were raised in consultation with Victoria Police prosecutors, such as the importance of emphasising to respondents that the FVIO process can be focused on protection and keeping family members safe, rather than on punishment of the respondent. This was explored in the below quote:

“It’s about, you know, what we can do to maximise safety and what can we do from a referral process. Referring someone into the [behaviour change] program is not a punishment for something that happened on the weekend. It’s a preventative course and it’s designed to assist.”

(Victoria Police consultation)

Finally, there was also feedback in the consultations about a resource gap existing in relation to young people involved in FVIO matters, either (or both) as respondents and AFMs. Although examples were provided of the IRO role often supporting young people at court by assisting them to make applications for aid or other relevant support services, the evaluation found that there is a lack of accessible resources available for young people involved in FVIO hearings.

This stands in contrast to wider recognition across VLA and the public legal assistance sector more broadly about the value of legal assistance for young people identified as respondents.²⁴ This assistance is usually only available at the Melbourne registry at the Children’s Court (where Family Violence Practitioners are also available) or at Sunshine Magistrates’ Court, where a pilot is run by Youthlaw, a community legal service providing legal assistance to young people.

²⁴ Campbell, E., Richter, J., Howard, J & Cockburn, H. (2020), *The PIPA project: Positive Interventions for Perpetrators of Adolescent violence in the home* ANROWS, Sydney. <<https://cij.org.au/research-projects/the-pipa-project-positive-interventions-for-perpetrators-of-adolescent-violence-in-the-home/>>; Centre for Innovative Justice, (2022) *Evaluation of Youthlaw’s Pre-court Support for adolescents using violence in the home* <https://cij.org.au/research-projects/pre-court-support-for-avith-pilot/>.

Where young people – and particularly those aged under 18 – are respondent to an FVIO application which is heard in an SFVC location (sitting in the Children's Court jurisdiction), this represents a significant service gap – and often a tension in approach between recognising the needs of young people on the one hand and a commitment to taking a proactive, specialist family violence approach on the other.

More generally, the needs of young people and children as AFMs on FVIOs is still an under-addressed area of public legal assistance, despite the RCFV identifying it as a priority.²⁵ VLA has developed dedicated information resources about children and young people and FVIOs, however, with this information available on their website.^{26 27} This finding will be discussed in more detail in the Recommendations section.

²⁵ Royal Commission into Family Violence (Victoria), *Summary and Recommendations Report* (Report, March 2016) ('RCFV Final Report').

²⁶ Victoria Legal Aid, *Children and Family Violence Intervention Orders* (Web Page, last reviewed 4 June 2024) <<https://www.legalaid.vic.gov.au/children-and-family-violence-intervention-orders>>.

²⁷ Victoria Legal Aid, *Family violence orders protect children* (Web Page, last reviewed 3 June 2024). <<https://www.legalaid.vic.gov.au/internal:/site-5/family-violence-orders-protect-children>>.

2.2 The Model is in line with best practice

A further key finding of the evaluation was the extent to which the Model is in line with best practice in providing family violence informed legal assistance. The below sections highlight relevant domestic and international literature which indicate the importance of providing client-focused legal assistance to address family violence risk, as well as the opportunity of connecting clients with ongoing support. These findings demonstrate the strong evidence base that underpins the Model and support its position as a best practice approach.

2.2.1.1 For victim survivors (AFMs)

The importance of AFMs receiving independent legal representation (including in police-initiated matters)

In research released in 2021 by the CIJ on the process of obtaining an FVIO, the majority of participants felt that legal representation for AFMs and respondents would be more likely to result in safer negotiations and FVIO conditions.²⁸ Crucially, this research also noted a persistent misconception by AFMs and even many professionals in the SFVC context that Victoria Police legally represented an AFM in any police-led application.²⁹ It is vital to highlight that this is not the reality – and that Victoria Police bring applications for FVIOs on behalf of the community and often seek conditions that do not align with a victim survivor’s wishes. This means that independent legal representation for AFMs is particularly important in these circumstances.

The potential opportunity to connect AFMs to ongoing support

Lawyers and support practitioners offering integrated legal and casework assistance who participated in the above research strongly advocated for “earlier and *follow-through* engagement with non-legal support services”.³⁰ Significantly, the research identified that support at court and being linked in for ongoing casework support are critical in AFMs’ “feelings of safety at court and in narratives of hope, wellbeing and recovery”.³¹ Also noted was the value of appropriately funded legal representation for AFMs in self-initiated applications to alleviate the requirement for them to attend court (in person),³² increase feelings of safety and minimising re-traumatisation.

The importance of legal representation during the negotiation process

The final report of the RCFV also noted the importance of legal representation during the negotiation process when reaching FVIOs by consent.³³ In particular, the report noted that, if a victim survivor is not legally represented, this can provide an opportunity for the violent partner to continue to instil fear and control.³⁴ If parties are not represented or adequately represented, this in turn means that the negotiation may not be properly managed and may result in incomplete or inappropriate orders. Magistrates might also rely on the assumption that practitioners have assisted and arrived at a “suitable and fair arrangement” and, if Magistrates are reluctant to make further inquiries, parties might not raise queries or concerns.

²⁸ Campbell, E., Bissett, T., Howard, A., Lewers, N., Polis, M. & Richter, J. (2021) *More than just a piece of paper: Getting protection orders made in a safe and supported way: Responding to Recommendation 77 of the Royal Commission into Family Violence* (Report, CIJ, RMIT University) 105 (‘More than just a piece of paper’).

²⁹ Ibid 107.

³⁰ Ibid 95.

³¹ Ibid.

³² Ibid 85.

³³ RCFV Final Report, Chapter 16, 178.

³⁴ RCFV Final Report, Chapter 16, 178.

Matters involving AFM misidentification

In matters where a victim survivor has been misidentified as a predominant aggressor in an application for an FVIO, experienced legal support can help to correct the misidentification and ensure that a victim survivor is treated appropriately.³⁵ In a study of duty lawyers in Victoria, a number of participants identified that “making submissions to the court that challenge the [application] and establishing a history of abuse perpetrated against the respondent ... is an important part of providing redress in misidentification cases”.³⁶

In the largely one-sided context of a first mention hearing, this may be the only opportunity to make submissions that highlight the genuine risks to a misidentified respondent.³⁷ Time and resourcing constraints can prevent correct representation of a misidentified victim survivor and mean that lawyers are unable to present the complete picture of the abuse.³⁸ Where time and resourcing constraints coincide with a lack of appropriate services such as interpreters, this increases the likelihood that victim survivors’ experiences go unheard.³⁹

AFMs from diverse or marginalised cohorts

It is vital to note that women, particularly First Nations women, women from culturally and linguistically communities, women experiencing homelessness and women experiencing mental health issues and/or other forms of disability are said to be overrepresented in misidentification matters and face challenges in having police officers take their version of events into account.⁴⁰ As such, misidentification that goes uncorrected is a significant access to justice issue, making adequate and appropriate legal advocacy at court to rectify the misidentification crucial. Misidentification can also elevate the risk to the victim survivor’s safety, as they may be rendered ineligible for support services or not be referred into these services.⁴¹

AFMs experiencing systems abuse

System abuse by a predominant aggressor can also impact the outcome and support for victim survivors. Research shows that the ways in which adults using violence can use the legal system to continue their abuse are wide and varied.⁴² Some predominant aggressors emotionally manipulate victim survivors by leveraging the stress of the court environment and family violence experiences; financially overpowering the victim survivor’s ability to litigate fairly; and prolonging proceedings for many years.⁴³

³⁵ Reeves, E. (2023) ‘A Culture of Consent: Legal Practitioners’ Experiences of Representing Women Who Have Been Misidentified as Predominant Aggressors on Family Violence Intervention Orders in Victoria, Australia’ 31 *Feminist Legal Studies* 369–390 (‘A Culture of Consent’).

³⁶ Ibid 377.

³⁷ Ibid.

³⁸ Ibid 385.

³⁹ Ibid 377.

⁴⁰ Reeves, E. (2020) ‘Family violence, protection orders and systems abuse: views of legal practitioners’ 31(1) *Current Issues in Criminal Justice* 91-110, 96.

⁴¹ Australia’s National Research Organisation for Women’s Safety (ANROWS) (2021) ‘Interventions for perpetrators of domestic, family and sexual violence in Australia: Research Synthesis’, 7.

⁴² Douglas, H. (2018) ‘Legal Systems Abuse and Coercive Control’ 18(1) *Criminology & Criminal Justice* 84-99, 86.

⁴³ Ibid 86-87.

Respondents can also use proceedings in one court to gain advantages in concurrent proceedings in another.⁴⁴ Such tactics not only continue the stress and trauma for victim survivors but also the contact with the perpetrator, depleting resources and recovery.⁴⁵

Where a victim survivor is exposed to re-traumatisation through the court process, this can negatively impact their choices and may prompt them to cease engaging with the legal process entirely.⁴⁶ The risk of re-traumatising experiences at court may be particularly detrimental in the context of applications by AFMs, where the victim survivor, rather than the police, has made the application and is required to justify the need for a FVIO. Where a victim survivor is traumatised, this also impacts their ability to represent themselves, becoming another barrier to justice.⁴⁷ Here it is useful to note that adequate and holistic support, including social work, case management and counselling, can limit re-traumatisation, which can in turn support victim survivor readiness to seek further assistance, as well as their recovery journey. This is in itself an example of how safety can be increased and risk reduced through the delivery of appropriate legal and case management support.⁴⁸

Comparable legal practice models

Evaluations of comparable specialist assistance at courts in other jurisdictions confirm the benefits of wrap-around service delivery for clients experiencing family violence.⁴⁹ An evaluation of a specialist Domestic Violence Unit (DVU) operated by Legal Aid NSW found that a number of aspects of the model facilitated trauma-informed service delivery for victim survivors.⁵⁰ The evaluation noted that the DVU was established “in response to an identified need for a more integrated and intensive response to the complex needs of people experiencing or at serious risk of domestic and/or family violence”.⁵¹

Further, the NSW evaluation found that the support offered to clients, including legal assistance across multiple legal problem types and social work support for related non-legal needs, resulted in a “better, more supported experience that fostered client empowerment and continued engagement with services and ultimately resulted in “more holistic and enduring outcomes”.⁵² The accessible, supported, trauma-informed, streamlined and holistic nature of services were reported to enable more timely intervention, a better service experience and better outcomes across a “broader range of both legal and non-legal needs”.⁵³ Additionally, the aspects of the NSW model that were found to enable trauma-informed service delivery included: staff members’ ability to develop quick rapport with clients; coordination (including communication, information sharing and continuity of service) between the DVU team and partners; the presence of a social worker and a specialist team; and the use of safe rooms.⁵⁴

⁴⁴ Ibid 86.

⁴⁵ Ibid 86

⁴⁶ Katirai, N. (2020) 'Retraumatized in Court' (2020) 62(1) *Arizona Law Review* 81-124, 85.

⁴⁷ Ibid 88.

⁴⁸ Ibid.

⁴⁹ Coumarelos C. (2019), 'Quantifying the legal and broader life impacts of domestic and family violence' 32 *Justice Issues (Law and Justice Foundation of New South Wales)* 26 ('Quantifying the legal and broader life impacts').

⁵⁰ Coumarelos, C., Forell, S., Wilson A. & Karras, M. (2018) 'Legal Aid NSW Domestic Violence Unit: Process evaluation of the first nine months' (Report, Law and Justice Foundation of New South Wales), 50-52 ('Legal Aid NSW Domestic Violence Unit').

⁵¹ Ibid.

⁵² Coumarelos et al., 'Legal Aid NSW Domestic Violence Unit' 64.

⁵³ Ibid 62.

⁵⁴ Ibid 50-52.

In an assessment of multiple evaluations of different types of specialist family violence courts across Australia, researchers note that the results affirm the benefit of “appropriate, targeted, timely and joined-up legal and human services for complex life problems experienced by disadvantaged people, such as victims of [domestic and family violence] ...”.⁵⁵ The results also point to the value of retaining and expanding integrated legal and human services in family violence contexts, such as through specialist family violence prevention legal services, to ensure that they are widely accessible.⁵⁶

As well as holistic wrap around services being crucial, research emphasises the importance of accessible, low-cost public legal assistance for people experiencing family violence, including duty lawyer services in court.⁵⁷ Legal services specifically tailored to marginalised groups such as people from First Nations communities have also been found to be beneficial.⁵⁸ Studies have indicated that, where victim survivors are given appropriate, low cost, specialised legal assistance, their safety, psychological and mental health and financial self-sufficiency were all positively impacted. As family violence has serious impacts on victim survivors, literature strongly indicates that legal redress significantly impacts both short and long-term outcomes for victim survivors and contributes to increased safety and empowerment.⁵⁹

Additionally, an evaluation of specialist legal assistance programs operated by Legal Aid NSW in Sydney courts, found that aggrieved participants in these courts reported a better understanding of the court order and lower uncertainty compared to the non-specialist court cohort.⁶⁰ While specialised approaches do aid people’s understanding, however, research indicates that a substantial proportion of people are still unsure about certain aspects of the process.⁶¹

2.2.1.2 The importance of family violence informed legal assistance for respondents

The potential to increase accountability and outcomes

Research by the CIJ indicates that the treatment at court of people using violence, as well as the extent of assistance that they receive, could directly impact accountability, compliance and future use of harm. When respondents have limited understanding of FVIOs or receive little to no advice or information prior to an order being made, this raises the risk of them breaching the FVIO.⁶² This study similarly illustrates that respondents often have limited capacity to absorb what is happening in a hearing⁶³ and, without understanding the nature of the order, are unlikely to be able to “participate safely or achieve safe outcomes”.⁶⁴ Respondents in this study also criticised the way in which practitioners often used shorthand they could not understand.⁶⁵

⁵⁵ Coumarelos, C ‘Quantifying the legal and broader life impacts’ 26.

⁵⁶ Ibid 26-27.

⁵⁷ Ibid 24.

⁵⁸ Ibid.

⁵⁹ Lee, J and Backes, B. ‘Civil Legal Aid and Domestic Violence: A Review of the Literature and Promising Directions’ (2018) 33(6) *Journal of Family Violence* 421 (‘Civil Legal Aid and Domestic Violence’) 421-433, 427, citing Copps Hartley, C. and Renner, L. ‘The Longer-Term Influence of Civil Legal Services on Battered Women’ (Report, May 2016) <<https://www.ncjrs.gov/pdffiles1/nij/grants/249879.pdf>>.

⁶⁰ Bond, C., Holder, R. Jeffries, S. & Fleming, C. ‘Evaluation of the Specialist Domestic and Family Violence Court Trial in Southport: Summary and Final Reports’ (Report, Griffith Criminology Institute, February 2017) 10.

⁶¹ Ibid.

⁶² Campbell et al., ‘More than just a piece of paper’ 109-110.

⁶³ Ibid 71.

⁶⁴ Ibid 73.

⁶⁵ Ibid.

As respondents usually attend court having had minimal support or advice, including legal advice, few parties are in the position to make decisions or properly understand the content or consequences of FVIOs.⁶⁶ Research therefore highlights that the limited engagement received at court, as well as their limited readiness to engage with therapeutic referrals, points to the need for parties to be engaged earlier and via more assertive strategies *before* a court date.⁶⁷

Procedural fairness

Literature highlights that procedural justice can also impact the extent to which parties to a proceeding comply with decisions of the court. As the effectiveness of the justice system's responses to family violence depends on the extent to which people using violence comply with the system's interventions, it is crucial to understand the factors that reduce or increase compliance and enable the intended outcomes of the family violence system. The CIJ's extensive 2018 literature review, "*Beyond 'getting him to a program'*", outlines the wide body of research illustrating the impacts of a court process on a person using violence, their perception of the outcome and likelihood of compliance with court orders.⁶⁸ Procedural justice research further illustrates that the experience of the legal process itself is more important to individuals than the outcome,⁶⁹ and that parties are more likely to view an outcome as valid and comply with this outcome if they perceive the process as fair.⁷⁰

The following factors are said to determine whether a person will view a process as procedurally just:

- that they have had their voice heard;
- that they are treated with respect; and
- that officials and decision-makers approach the matter with an open mind; are consistent in their treatment of similar cases; and consistent in their treatment of the same person over time.⁷¹

Specific to the family violence context, where people using violence view a process as fair, they are "more likely to see the court's decisions as legitimate, and therefore more likely to comply with them".⁷² Research shows that procedural justice throughout the legal process can also maximise engagement with MBPs when completion of a program is ordered or encouraged.⁷³

⁶⁶ Ibid 75.

⁶⁷ Ibid 71.

⁶⁸ Campbell, E., Vlasis, R & Bissett, T. (2018), 'Beyond 'getting him to a program': Towards Best Practice for Perpetrator Accountability in the Specialist Family Violence Court Context', Centre for Innovative Justice, RMIT University ('Beyond 'getting him to a program').

⁶⁹ Ibid 29.

⁷⁰ Ibid 30.

⁷¹ Ibid, citing Epstein, D. (2001) 'Procedural Justice: Tempering the State's Response to Domestic Violence' 43(5) William and Mary Law Review 1843-1905, 1878-1882.

⁷² Ibid 29.

⁷³ Ibid.

The domestic evidence base

Research by the CIJ similarly identified a need for increased engagement, advice and support for respondents involved in the FVIO process.⁷⁴ This research identified that respondents in FVIO matters often have limited understanding of the process and the meaning of orders⁷⁵ and attended court with minimal knowledge, pointing to a lack of effective engagement or assistance before the hearing date.⁷⁶

Only a small proportion of respondents participating in this research had received legal advice prior to attending court, while those that did receive advice often received it from private practitioners who had minimal experience in the jurisdiction or who had provided incorrect advice.⁷⁷ For the small proportions of participants who were able to get advice from VLA duty lawyers at court, the rushed manner of engagement was reported to contribute to the sense that no one was interested in their “side of the story”. In some cases, they reported being told by these lawyers that they had no choice but to consent to the order without further discussion.⁷⁸

Respondents were at times uncertain of the role of the professional with whom they had spoken, and some thought that they had seen a lawyer when they had actually seen a Respondent Practitioner.⁷⁹ The lack of assistance meant that Court Network volunteers often provided information to respondents who were confused and heightened at court, including information which bordered on provision of legal advice.⁸⁰ The primary legal need of respondents identified within this research was for legal information and advice on how a FVIO would impact their ability to see their children.⁸¹

The importance of parties having enough time to digest information, and the need for a general “slowing down” of the legal process to allow parties to be better equipped and informed, was discussed in this particularly CIJ study.⁸² Allowing parties additional time, including through a delayed FVIO return date (with interim protective measures) could enable increased access to legal advice, risk assessment and safety planning.⁸³ Slowing down the process could also mitigate against the risks posed by the respondents’ heightened state after a family violence incident and the pressure inherent in the court experience (and a lack of support) that might also heighten respondents.⁸⁴ As recommended by Campbell and colleagues in this study, pre-court triage and service engagement could alleviate tensions of court dates in the immediate aftermath of an incident.⁸⁵

As noted in the *“Beyond ‘getting him to a program’”* review, the importance of ensuring that participants feel heard, respected and engaged in a fair process that they understand is heightened in a FVIO context, given the focus on preventing future family violence.⁸⁶

⁷⁴ Campbell et al., 'More than just a piece of paper' 109-110.

⁷⁵ Ibid.

⁷⁶ Ibid 110.

⁷⁷ Campbell et al., 'More than just a piece of paper' 110.

⁷⁸ Ibid

⁷⁹ Ibid.

⁸⁰ Ibid.

⁸¹ Ibid.

⁸² Ibid 93.

⁸³ Ibid 77.

⁸⁴ Ibid 79-80.

⁸⁵ Ibid.

⁸⁶ Campbell et al, 'Beyond 'getting him to a program' 26.

Because of the risks of perceived procedural injustice, victim survivor safety further requires “courts [to] treat perpetrators with fairness and respect” and not “in a way that is unfair or compromises their dignity”.⁸⁷ Ultimately, broader studies note that “the safety of domestic violence victims is directly linked to the perceptions and experiences of their abusers.”⁸⁸ This highlights the importance of people using violence not only obtaining legal assistance in the FVIO process but assistance sufficient to provide the foundations of procedural justice.

The international evidence base

Echoing this, research into the experience of specialist domestic violence courts in the US identified several concerns held by people using violence relating to the court’s decision-making (contributing to their perceptions of procedural unfairness which tainted the results of their matters).⁸⁹ Such concerns included that they believed that they had received “assembly line justice,” regardless of the charges or allegations, and that they had received poor legal representation and had experienced indifference from the court.⁹⁰

Crucially, defendants in this study felt that the desire of court/related personnel to resolve cases and manage court caseloads in an expedited fashion took priority and impeded their ability to tell their story.⁹¹ Similarly, being denied “what they regarded as the necessary resources, time and information, to make informed decisions exacerbated their concerns and undermined the court’s legitimacy”.⁹² Defendants further described feeling ambushed at sentencing – either as a result of misunderstanding, feeling misled or not receiving enough information about sanctions – and were more likely to view the result of the proceeding (even a lenient result) negatively.⁹³

2.2.1.3 Potential outcomes of family violence informed legal assistance

Literature indicates that ensuring that parties have greater access to services and more opportunities for support and comprehension is “likely to contribute to fewer FVIO breaches and applications for variations or revocations”,⁹⁴ and that appropriate legal representation for both parties is likely to result in safer FVIO negotiations and conditions in orders.⁹⁵ Most importantly, it is likely to contribute to greater confidence in the system on the part of court users, as well as resulting in a system which works at every point towards safety and accountability.⁹⁶

The structure and language of the narrative included in a FVIO application has also been shown to impact the likelihood of an order being granted,⁹⁷ pointing to the potential benefits of early assistance in crafting an application.⁹⁸ Applications with “strong legal narratives”, largely prepared by police, were shown to have more successful outcomes, while applications with less narrative strength (more commonly prepared by victim survivors) were less successful.⁹⁹

⁸⁷ Ibid 29.

⁸⁸ Epstein, 1849

⁸⁹ Pike, J. (2015) ‘Demanding accountability in domestic violence courts: Defendants’ perceptions of mandated batterer’s intervention programs’ (PhD Thesis, State University of New York) 108.

⁹⁰ Ibid 117-137.

⁹¹ Ibid 118.

⁹² Ibid 123.

⁹³ Ibid 126.

⁹⁴ Campbell et al., ‘More than just a piece of paper’ 111.

⁹⁵ Ibid 105.

⁹⁶ Ibid 111.

⁹⁷ Fitzgerald, R. and Douglas, H. (2020) ‘The Whole Story: The Dilemma of the Domestic Violence Protection Order Narrative’ 60(1) *The British Journal of Criminology* 180-197, 183.

⁹⁸ Ibid 193.

⁹⁹ Ibid 191.

Applications with a “strong legal narrative” were also found to be more credible and included descriptions of incidents meeting the legal definition of abuse, specific details of incidents, a clearly structured framework to help explain the abuse, as well as a linear, temporally ordered narrative and legal terminology. This research highlights the importance of legal or legally informed assistance to victim survivors even as early as the application stage, not just at the court hearing stage, particularly to ensure safety for victim survivors in cases where police have been unwilling or unavailable to apply on their behalf.¹⁰⁰

Overall, as a court system, research also indicates that a majority of victim survivors ranked their knowledge and understanding of the process as “very low”, potentially contributing to victim survivor disengagement where they feel unprepared to navigate the system with confidence.¹⁰¹

¹⁰⁰ Fitzgerald and Douglas, 193.

¹⁰¹ RCFV Final Report, Chapter 16, 130, citing Department of Justice, ‘Information and Support Needs of Victims and Witnesses in the Magistrates’ Court of Victoria’ (2013) 12; Magistrates’ Court of Victoria and Children’s Court of Victoria, Submission 978, 29.

2.3 Wider system challenges and limitations

2.3.1 Ongoing significant demand for family violence legal assistance

2.3.1.1 An increasing number of Victorians are qualifying for public legal assistance

The Victorian Department of Justice identified in its 2022 – 2025 Legal Assistance Strategy that the demand for legal services currently outweighs the ability for legal service providers to meet that demand in a meaningful or effective way.¹⁰² The impact of the current cost of living crisis has meant that an increasing number of Victorians are qualifying for legal assistance, placing more stress on legal assistance providers.¹⁰³ Despite the increase in people qualifying for aid, the Australian Law Council has identified that unmet legal need has become entrenched in Australia, with 14 per cent of people living below the poverty line but only 8 per cent eligible for legal aid.¹⁰⁴

2.3.1.2 The impact on people with family violence legal needs

Meanwhile, the 23 per cent increase in the reporting of family violence in Victoria between 2017 and 2022¹⁰⁵ and the associated justice response¹⁰⁶ has had substantial flow-on impacts on the number of FVIO applications¹⁰⁷ and put significant additional pressure on the legal assistance sector.¹⁰⁸ These increases are seen across the sector, especially for VLA and the 72 per cent of Victorian CLCs which provide support for victim survivors.

In Northeast Victoria, for example, 65.8 per cent of all clients accessing Hume Riverina CLC are affected by or at risk of family violence.¹⁰⁹ Without associated increases in funding, CLCs report being “inundated” and being forced to turn away thousands of people in need every year.¹¹⁰ Combined, this can mean that a victim survivor of family violence could be living below the poverty line, as noted above, and still not necessarily be eligible for ongoing legal aid representation for their family violence or (often related) family law legal matter.¹¹¹

While these eligibility questions are not directly relevant to the receipt of duty lawyer services, if victim survivors are less likely to be eligible for ongoing legal assistance, expert assistance at the duty lawyer stage becomes even more vital. This is crucial in terms of supporting victim survivor safety and ensuring that relevant considerations have informed judicial decision making.

¹⁰² Department of Justice and Community Safety, *Victorian Legal Assistance Strategy 2022-2025* (Web Page) <<https://www.justice.vic.gov.au/justice-system/legal-assistance/victorian-legal-assistance-strategy-2022-2025>> ('Victorian Legal Assistance Strategy')

¹⁰³ Ibid.

¹⁰⁴ Australia Law Council <https://lawcouncil.au/media/media-releases/access-to-justice-requires-major-boost-to-legal-assistance-service-funding>

¹⁰⁵ According to the Victoria Police LEAP database, the number of recorded family violence incidents per year has increased from 76,093 to 90,553 between 2017 and 2022. *Family Violence Database - Victoria Police data tables*, Table 1 <<https://discover.data.vic.gov.au/dataset/family-violence-database-victoria-police-data-tables>>.

¹⁰⁶ FVIOs sought by police have increased between 2017 and 2022 from 11,883 to 14,124; *Family Violence Database – Victoria Police data tables*, Table 13.

¹⁰⁷ Ibid.

¹⁰⁸ Wand, K. (2024) 'Community Legal Centres struggling to provide critical family violence support as funding trails demand' <https://www.fclc.org.au/family_violence_funding_trails_demand>.

¹⁰⁹ Wand, above n 105.

¹¹⁰ Ibid.

¹¹¹ Millane, E., Jackson, A., Blane, N. (2023) 'Justice on the Brink: Stronger Legal Aid for a Better Legal System' *Impact Economics and Policy* ('Justice on the Brink').

It is also crucial when people using family violence can deploy the family violence and family law systems to perpetuate systems abuse, with complex and extensive legal processes often compounded by deliberate delays which in turn see victim survivors incur onerous legal costs.¹¹²

2.3.1.3 Recent trends in FVIO hearings in Victoria

Useful to consider in any analysis of the FVIO and SFVC environment are figures which indicate the increase in volume to which SFVCs are responding. According to the Crime Statistics Agency's family violence database, for example, the number of original FVIO matters finalised per financial year across all relevant courts (including the Children's Court) rose significantly from 35,493 in 2020-21, to 42,646 in 2021-22. Specific to the SFVC environment, are particular trends which point to the value of investing in appropriate resourcing and support for these contexts, given the growing demand for their services as more SFVCs become gazetted across the state. For example, the CSA database indicates that:

- The number of original FVIO matters that were finalised in SFVCs increased substantially from 8,438 in 2021-22 to 22,916 in 2022-23.¹¹³
- A greater proportion of respondents attended their FVIO hearings in SFVC environments, particularly as courts resumed in-person hearings and required respondents to attend.¹¹⁴

2.3.1.4 The role of Victoria Legal Aid

The Crime Statistics Agency's database also contains valuable data on the legal services provided by VLA to people with family violence legal needs since 2018.¹¹⁵ Since 2020-21, it notes an increase in the percentage of duty lawyer services provided to clients, with these services accounting for 55 per cent of the family violence legal services provided in 2020-21; 60 per cent in 2021-22; and rising to 71 per cent in 2022-23.

Useful context in relation to VLA's client profile, in 2022-23, the majority (68 per cent or 11,673 out of 17,196) of clients who received VLA's duty lawyer services identified as male, whereas 32 per cent (5,471 out of 17,196) identified as female. A significant percentage of clients were identified as having a disability (28 per cent), with 46 per cent having no disability, and 26 per cent having no disability specified. The majority (65 per cent) of clients were born in Australia, with 24 per cent born overseas, and 11 per cent born in a location that is not identified on VLA's database. Finally, most clients to whom VLA provided family violence legal services in 2022-23 were adults (94 per cent), with 5 per cent identified as children or young people.

2.3.2 The operation of the Model in this context

The escalating numbers of people with family violence legal needs and those who qualify for or seek public legal assistance in Victoria, creates a challenging environment in which the Model is attempting to operate and achieve its objectives and full potential.

Across the five original SFVC court locations, the number of clients accessing VLA's duty lawyer

¹¹² Lyons, K. (2024) 'Debt, danger or a decade of fighting: how a lack of legal services leaves DV victims with dire choices' *The Guardian* <<https://www.theguardian.com/australia-news/article/2024/may/17/debt-danger-or-a-decade-of-fighting-how-a-lack-of-legal-services-leaves-dv-victims-with-dire-choices>>

¹¹³ Crime Statistics Agency, Family Violence Dashboard (Web Page, 2022-2023) <https://www.crimestatistics.vic.gov.au/family-violence-data/family-violence-dashboard>.

¹¹⁴ Ibid.

¹¹⁵ Ibid.

service has been relatively consistent, other than an increase between 2022 –23, with data from the first half of 2023 – 2024 currently tracking at 6,000 duty lawyer services.

Of the five court locations, since 2019, Frankston and Heidelberg have consistently remained the courts which service the greatest number of duty lawyer clients, with the other three courts remaining relatively stable in their numbers. This is similarly the case for clients accessing the duty lawyer services provided by CLCs across the five court sites.

In addition to the number of clients to whom the duty lawyer services at the five court sites are responding, a range of other resourcing related factors were raised in the stakeholder consultations which can limit or impede the ability of the Model to provide a family violence informed duty lawyer service.

One of these factors involves the duty lawyer services becoming more time consuming, because of the recent shift in courts adopting more of a hybrid and online working environment (e.g., court stakeholders communicating via an online platform, which lawyers have to manage in addition to communicating face-to-face with clients). Second, the Family Violence Program team explained that, notwithstanding the courts' decision to favour 'active case management' practices over list capping, there has been a general increase in the sizes of lists, which duty lawyers who are already at capacity are struggling to service.

Since the development of the Model, more courts have been gazetted as SFVCs, including:

- Bendigo
- Broadmeadows
- Melbourne
- Geelong
- Sunshine
- Dandenong
- Ringwood
- Latrobe Valley

As the project team explained, however, resourcing at the five original SFVC sites where the Model is in operation still exceeds the newer sites (with the exception of Bendigo), which receive substantially less funding. This has meant that the Model and the family violence informed legal services (and critically, the non-legal support) that it provides, has not been able to be expanded to these new sites, with each of them receiving only a modest increase in duty lawyer capacity.

As the Family Violence Program team recognises, the original purpose of the SFVCs under the RCFV's recommendation that people with legal needs receive a holistic model of family violence court services,¹¹⁶ cannot be met with these levels of resourcing, given that it is unable to be met, even at the first five sites that were more comprehensively resourced.

Feedback from stakeholder consultations

During the stakeholder consultations, concerning examples were raised about the impacts of duty lawyers being under-resourced and unable to meet the demand for their services at court.

One such example was raised by a CLC, whose lawyers explained the potential impacts for

¹¹⁶ Royal Commission into Family Violence (Victoria), *Summary and Recommendations Report* (Report, March 2016).

AFMs if respondents are unable to receive legal representation via the duty lawyer service on the day of the hearing. As this situation can mean that the matter is adjourned, this can cause distress and re-victimisation to AFMs who want the matter to be resolved and for protective measures to be put in place.

Another key example provided by legal practitioners, court staff and Victoria Police, which illustrates the impact of duty lawyer services being under strain, involves accounts of parties appearing in court without the duty lawyer present, while potentially representing themselves based on the duty lawyer's advice. This theme was identified in court locations with the most substantial lists and was described as a result of duty lawyers having to make assessments about clients who may have greater capacity to represent themselves, so that, overall, the lawyer can see as many clients on the list as possible.

As judicial officers and court staff described, however, this practice can lead to the matter being delayed if the client is asked a question by the Magistrate or the other party's lawyer which they are unable to answer. Just as importantly, it could also mean that the unaccompanied party may not have understood the proceedings or their outcome. This is indicated in the quote below:

"They [the Magistrates] ask a question which can't be clarified, and so matters have to keep getting stood down to then go back out to the lawyer, which then obviously causes further delay, so if they're trying to use it as a way to speed things up and see more people, it doesn't work ... because they have to keep coming back to the same client over again."

(Court staff consultation)

Stakeholders acknowledged that, although the information that the duty lawyer has provided to a client is generally included in material prepared for the Magistrate (based on information available on Courtlink) further questions can arise. This is particularly in cases where English is not the client's first language or if they have other support needs that can make their unaccompanied participation more challenging.

Judicial officers also described how the complex nature of many FVIO applications puts further strain on duty lawyer resourcing, as illustrated in the quote below:

"I think the difficulty is that [duty lawyers] can obviously deal with only one party at a time, and I think it's very, very difficult to sort of, say 20 minutes for you, 20 minutes for you, because sometimes it's a very, very complex matter."

Sometimes a matter can be very straightforward as well, so if you, let's say, just have sheer bad luck where for example you start the day, and you happen to get two or three very complicated matters, it can set you back because there's also all these other people. They're still waiting to see you as well."

(Judicial officer interview)

Finally, it was emphasised by some lawyers that publicly funded legal services should be better resourced, given that they can often be a critical first point of contact for people experiencing or using family violence. Lawyers explained that more resourcing would enable duty lawyers to meet the demand of people requiring legal representation and advocacy in their FVIO matter, including the important ability to lodge appeals or seek judicial reviews. One lawyer reflected this position in the following quote:

“And from a funding perspective, I just don’t think that legal services were ever considered like a crisis point or a frontline service, but in these situations [FVIO duty lawyer service], they very clearly are.

And so much money gets pumped into, you know, those additional supports for clients and family violence services, but when it comes to legal, it’s often an afterthought.

But it can be so important in terms of getting that protection in the first place.”

(CLC lawyer consultation)

2.3.3 Potential for strengthening through other mechanisms

2.3.3.1 Pre-court engagement service

The evaluation consistently heard from stakeholders about the value of clients receiving pre-court engagement, either from duty lawyers, or support practitioners such as the IROs or ACE officers. The value of this engagement lies in its potential to prepare clients more effectively for their court hearing and the FVIO process. This is because they can be provided with information about their legal options, as well as practical advice about what to expect on the day of the hearing and during the process overall. It can also provide lawyers with important insight about a client’s safety situation, as well as any other support considerations that are relevant to the client. The value of pre-court engagement is described by a judicial officer below:

“I’m actually a really big believer in terms of our SFVC having a model where there’s pre-court engagement. It’s similar to what we’re just talking about in terms of the volume and pressures upon duty lawyers at court on that day ... I still think that a lot of that work can be done before court.

And I know it’s a resourcing issue because those VLA lawyers are busy doing information gathering as well, but if there was some scope or ability to in terms of, you know a practice model going forward that incorporated, maybe to a larger extent pre court engagement. I think that’s the answer going forward in terms of safety and risk.”

(Judicial officer interview)

Although it was clear that some IROs and ACE officers are initiating forms of pre-court engagement with clients, this largely occurs on an ad-hoc basis, where they happen to receive referrals from external services or, in some cases, as a result of speaking to respondents who are in the custody in the cells at court. Given the already numerous constraints on their capacity, particularly in the duty lawyer role, this engagement was described by legal practitioners as beyond their capacity to provide.

Some exceptions existed where lawyers received referrals for clients via the VLA Legal Helpline or a local family violence service and were able to get in contact with the client before their court hearing to provide preliminary advice. These exceptions were occurring in court locations with smaller FVIO lists, however, where lawyers had more capacity.

The value of this engagement was recognised in establishment of the Pre-Court Engagement service (PCE) (formerly known as the Early Resolution Service), which was initially established during COVID related lockdowns to negotiate family violence matters prior to the court day. Although none of the five original SFVC sites included in the evaluation are currently funded for PCE, other court sites have received funding for PCE, including Broadmeadows, Dandenong, LaTrobe Valley, Melbourne, Ringwood, and Sunshine, all of which have now become SFVCs.

Notably, the PCE was originally named the “Early Resolution Service” but was re-named following an evaluation of the pilot conducted by DJCS. This occurred because the evaluation found that there were a range of limitations in the extent to which matters could be resolved under the pilot. It nevertheless identified that core benefits of the pilot included its potential to provide trauma-informed, earlier engagement and advice for people seeking family violence related legal assistance. The DJCS evaluation also identified the value in court users being provided with advice and information before their first court hearing, regardless of whether their matters were able to be resolved prior to court.

Legal practitioners consulted for the current evaluation described experiences of the PCE which mirrored the DJCS evaluation’s findings. Some of the key limitations they identified included late referrals for clients to legal services (generally from the court), and challenges engaging other parties to establish their position. In consultation with Victoria Police, it was explained that this could often occur when they were unable to get in contact with the AFM.

Lawyers noted that this could be particularly problematic in cases where the AFM opposes the police position and stressed the importance of the independent position of AFMs being established, ideally before court.

Other examples were provided where AFMs in police-initiated applications were reportedly told by police, or the court, that they were not required to attend court or be involved in the process, including for reasons of physical and psychological safety. Lawyers argued that this further highlights the value of AFMs having their own legal representation.

Lawyers and Victoria Police endorsed the potential value of PCE, however, as highlighted below:

“But yeah, we think it's a great service and as long as every stakeholder plays their role it works really well ... So that on the day of court, everyone knows where they stand, and we can put them straight into court ... Reduce congestion at court and reduce waiting times, so that we can get people out the door quicker and not waste those resources at court.”

(Victoria Police consultation)

“At least we’re able to engage with our clients, give advice, take instructions, let that client sit with the advice or their situation for a little while and take things further when we get to court ... and we’re making that assessment as to safety risks, does [the AFM] actually need to come to court or can she appear remotely?”

(CLC lawyer consultation)

“I just see such a significant difference in clients who have heard the voice of the person they’re meeting the next day ... and I think that it actually helps the lawyer as much as it helps the client.”

(CLC lawyer consultation)

2.3.3.2 Fit for purpose infrastructure to support the Model

The evaluation found that the Model can also be strengthened by fit-for-purpose infrastructure at the court locations at which it operates. In some court locations, stakeholders described how the Model can be limited by inadequate infrastructure, such as:

- Small meeting rooms that can in some cases only fit the duty lawyer and the client, which means that, if a client has a support person with them, they may not be able to included;
- Duty lawyer offices are not always equipped with a laptop dock and monitor, which can mean that lawyers are working on a small laptop screen, which can make managing communication across multiple platforms and documents more challenging;
- WiFi in some court locations is still inconsistent;
- A lack of dedicated safe waiting areas for young people (including those identified as AFMs and/or respondents); and
- A lack of facilities available in general waiting areas (e.g., free tea and coffee not available in some court locations).

2.3.3.3 Training and specialisation in the SFVC environment

Another factor identified which can impact the potential for the Model to achieve its intended outcomes is the variation in recognition of an AFM’s legislated entitlement to appear remotely. Examples raised in consultations included some registry staff and judicial officers turning down the requests made by legal and supporting practitioners for AFMs to appear remotely because of safety concerns.

The CIJ heard that this was not reportedly occurring in all five court locations but was more likely to occur in locations where there was a higher turnover and rotation of court staff. As was the case in the interim evaluation, it was also identified that judicial awareness of the IRO role and ACE officer role could improve.

2.3.3.4 Availability of wider services

The availability of wider services was another factor commonly identified as impacting the Model’s potential to achieve its objectives. Key examples included:

- Regional clients being unable or ineligible to participate in services to which they were referred by the court as part of the FVIO (e.g., often because of limited service capacity, or program costs);
- The withdrawal of some services located at courts, such as the Salvation Army, could limit the ability of IROs and ACE officers to refer clients for immediate material aid and support (e.g., Myki cards, phone credit or food vouchers);
- A lack of available services for culturally and linguistically diverse clients (e.g., MBCPs in languages other than English); and
- A lack of a dedicated mental health support service at court (e.g., can mean that clients who are experiencing a mental health crisis are unable to receive immediate specialist support at court).

2.4 Conclusion

Overall, the evaluation found that the Model has significant potential to deliver on its intended aims and is already doing so on multiple levels. Against the challenging backdrop of COVID related impacts on court processes; reduced funding for legal assistance and increased family violence demand, the Model has prioritised developing a coherent and consistent approach to delivering duty lawyer services that is family violence informed; introduced and strengthened innovative roles that provide crucial non-legal support; and centred the role of lived experience in its governance and development, including in the development of resources focused on information provision and training.

In doing so, the Model provides a crucial example not only of the importance of access to legal assistance with family violence-related legal needs, but legal assistance which is family violence informed. Acknowledging the constraints on VLA's capacity to impact the wider systemic issues described in this report, the following are targeted and practical recommendations which can help not only to strengthen the Model, but to communicate its existing value in more direct ways.

3 Recommendations

3.1 Strengthening the Model

3.1.1 Information provision should be strengthened for respondents

- Information should be provided to respondents in a range of formats (e.g., video, infographic, information sheet both online and at court (including posters in waiting areas, in the courtroom itself, factsheets available at the registry desk).
- Legal services should continue to explore how information can be provided by Victoria Police before respondents attend court, with protocols developed between legal services and Victoria Police so that this occurs.
- The development of these resources should involve people who have used family violence as Lived Experience Advisors, as well as taking into consideration the experiences of young respondents and women misidentified as predominant aggressors.
- This information could include what to expect on the day of court, basic factsheets about legal outcomes (e.g., conditions of orders), as well as what legal and non-legal supports are available.

3.1.2 Greater clarity for court staff and judicial officers

- In addition to being discussed in relevant coordination meetings, VLA should explore an arrangement that enables the posting of clearly visible notices in or outside courtrooms which promote understanding about the scope and purpose of the IRO role and ACEO role to parties and judicial officers. VLA should also engage in discussions with courts about the potential to post information on the court file each day about who is performing relevant roles. Notices around the court can also assist in clarifying these roles for Court Network and other court staff, such as Applicant Practitioners.
- VLA should provide clarity for court staff around the basis on which clients are triaged (e.g., risk and complexity or “First in best dressed”), as well as conflict and “capping” policies.
- VLA should consider providing a regular (such as every quarter) “refresher” on the support roles that are available at court, their purpose/scope etc for both lawyers, court staff and judicial officers.

3.1.3 Maximising pre-court engagement

- Noting that funding for pre-court engagement from legal practitioners has not been expanded, in some court locations IROs reportedly had capacity to receive more referrals. In these instances, IROs could be encouraged to contact clients referred to the duty lawyer service ahead of their court date.
- Drawing on examples of initiatives listed in this report, such as the ACE officers attending the cells at court and doing outreach at local service providers, opportunities for wider pre-court engagement by non-legal roles should also be encouraged and promoted, given that this early connection with the Model can improve a client’s court experience.

- VLA should continue to explore how referral pathways can be established and strengthened to maximise opportunities for clients to be referred to VLA or a CLC before their first court hearing.

3.1.4 Continuous training and Best Practice Framework.

- VLA should finalise and promote training modules that are currently in development.
- VLA should explore the development of training modules in key areas commonly raised during the consultations, e.g., working with young people identified as respondents and/or AFMs and non-collusive engagement with people who use family violence.
- VLA should continue to build awareness of these resources amongst lawyers, court staff, non-legal support roles and judicial officers, including as part of induction processes for new staff, and as “refresher” training for established staff.
- VLA should continue exploring how these resources can be shared with and accessed by private practitioners who regularly appear in FVIO matters in the SFVC environment.

3.1.5 Promoting the value of public legal assistance

- While the value of public legal assistance is clear to all working in and evaluating the Model, the current public discourse around family violence highlights that the role of public legal assistance can never be overlooked or assumed.
- The CIJ therefore recommends that the work conducted for the current evaluation informs or supports VLA’s wider advocacy efforts around the value of public legal assistance in improving safety and reducing risk. This advocacy to funders and decision makers should also articulate how this type of legal assistance should be distinguished in capability, training and nuance from non-specialist legal assistance that might be available elsewhere.
- In addition, VLA should consider developing scope for the IRO role to engage in community legal education/engagement to promote awareness of the importance of free legal assistance, especially in the SFVC context.

3.1.6 Establishing structured feedback channels

- VLA should establish feedback channels to receive information about the Model’s operation at different SFVC locations in a consistent and ongoing way.
- These channels should focus on building awareness of factors impacting the Model across the different SFVC court locations.
- These channels should also focus on how the Model can be better supported by fit-for-purpose infrastructure at court sites, such as adequate work and meeting spaces for duty lawyers to use, safe waiting areas, and suitable facilities for young people.