

NATIONAL FAMILY VIOLENCE PREVENTION
LEGAL SERVICES

WORKING TO ACHIEVE IMPROVED JUSTICE OUTCOMES FOR ABORIGINAL AND TORRES STRAIT ISLANDER
VICTIMS/SURVIVORS OF FAMILY VIOLENCE AND SEXUAL ASSAULT

National Family Violence Prevention Legal
Services Forum submission to the Australian
Labor Party

ALP National Policy Platform 2018 Draft Consultation

May 2018

About the National FVPLS Forum

The National FVPLS Forum is comprised of 14 Family Violence Prevention Legal Service ('FVPLS') member organisations across the country that provide culturally safe and specialist legal and non-legal assistance and support to Aboriginal and Torres Strait Islander victim/survivors of family violence – predominantly women and children. They also deliver essential community legal education and early intervention and prevention activities.

The National FVPLS Forum was established in May 2012 and works in collaboration across its member FVPLS services to increase access to justice for Aboriginal and Torres Strait Islander victims/survivors of family violence. Nationally, more than 90% of our clients are women.

National FVPLS Forum members are:

- Aboriginal Family Law Service Western Australia (Perth HO, Broome, Carnarvon, Kununnura, Geraldton, Kalgoorlie, Port Hedland)
- Aboriginal Family Legal Service Southern Queensland (Roma)
- Binaal Billa Family Violence Prevention Legal Service (Forbes)
- Central Australian Aboriginal Family Legal Unit Aboriginal Corporation (Alice Springs HO, Tennant Creek)
- Djirra – formerly Aboriginal Family Violence Prevention and Legal Service Victoria (Melbourne HO, Mildura, Gippsland, Barwon South West and shortly also Echuca-Shepparton, La Trobe Valley, Ballarat and Bendigo)
- Family Violence Legal Service Aboriginal Corporation (Port Augusta HO, Ceduna, Pt Lincoln)
- Many Rivers Family Violence Prevention Legal Service (Kempsey)
- Marninwarnitkura Family Violence Prevention Unit WA (Fitzroy Crossing)
- Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council Domestic and Family Violence Service (Alice Springs, NPY Tri-state Region)
- Queensland Indigenous Family Violence Legal Service (Cairns HO, Townsville, Rockhampton, Mount Isa, Brisbane)
- Southern Aboriginal Corporation Family Violence Prevention Legal Service (Albany, WA)
- Thiyama-li Family Violence Service Inc. NSW (Moree HO, Bourke, Walgett)
- Warra-Warra Family Violence Prevention Legal Service (Broken Hill)
- North Australian Aboriginal Family Legal Service (Darwin HO, Katherine)

Introduction

The National Family Violence Prevention Legal Services Forum (National FVPLS Forum) generally welcomes and supports the consultation draft of the ALP's National Platform 2018 with respect to Aboriginal and Torres Strait Islander peoples.

This submission identifies a number of recommended amendments in key focus areas of **Chapter 9: A fair go for all** within the draft consultation paper to strengthen the platform to support Aboriginal and Torres Strait Islander victim/survivors of family violence, particularly women.

The National FVPLS Forum's priorities in this submission are:

- The importance of self-determination and the endorsement of the [Redfern Statement](#);
- Supporting additional Closing the Gap targets in relation to family violence, over imprisonment, child protection, and housing;
- The importance on access to culturally safe services such as legal support, housing and health for Aboriginal and Torres Strait Islander women and children experiencing family violence.
- Reinstating the National Family Violence Prevention Legal Services Program with a direct allocation of funding, including increased funding to enable national coverage and meet demand;

Aboriginal and Torres Strait Islander victim/survivors of family violence face multiple, intersecting forms of disadvantage which compound and impact life outcomes. Family violence experienced by Aboriginal and Torres Strait Islander people (overwhelmingly women) is a national crisis. In comparison with other Australian women, Aboriginal and Torres Strait Islander women are 32 times more likely to be hospitalised as a result of family violence,¹ and 10 times more likely to be killed as a result of violent assault.² Aboriginal and Torres Strait Islander people are disproportionately over-represented in contact with the Australian legal system, and Aboriginal and Torres Strait Islander women have been found to be the most legally disadvantaged group in Australia.³

Please refer to the following previous submissions made by the National FVPLS Forum for further content:

- [National FVPLS Forum Closing the Gap Refresh submission](#)
- National FVPLS Forum ALP Gender Equality Strategy submission (attached)
- [National FVPLS Forum Australian Law Reform Commission Family Law Review submission](#)
- [Redfern Statement Family Violence and Justice Workshop Communiqué](#)
- [National FVPLS Forum 2018/19 Federal Budget submission](#)
- [NFVPLS, NATSILS and SNAICC joint policy paper "Strong Families, Safe Kids: Family violence response and prevention for Aboriginal and Torres Strait Islander children and families"](#)
- [Change the Record and Human Right's Law Centre's 'Over-represented and Overlooked' report](#)
- [Change the Record and PWC/PIC "Unlock the Facts"](#)

The National FVPLS Forum endorses the *Change the Record* submission to the ALP National Policy Platform.

¹ The Australian Productivity Commission (2016), *Overcoming Indigenous Disadvantage - Key Indicators 2016*, page 4.98, table 4A.12.13 available at <http://www.pc.gov.au/research/ongoing/overcoming-indigenous-disadvantage/2016/report-documents/oid-2016-overcoming-indigenous-disadvantage-key-indicators-2016-report.pdf>.

² Australian Institute of Health and Welfare, *Family Violence among Aboriginal and Torres Strait Islander people*, 2006, page 66 available at <http://www.aihw.gov.au/publication-detail/?id=6442467912>.

³ Senate Report on Legal Aid and Access to Justice, 2004. Aboriginal and Torres Strait Islander Commission (ATSIC), Submission to the Senate Legal and Constitutional References Committee Inquiry into Legal Aid and Access to Justice, ATSIC Canberra, 13 November 2003, page 4.

Recommended amendments

First Nations Peoples

Recommended amendment	
58	Labor endorses the Redfern Statement , and the need for adequate and secure resourcing peak and representative organisations for Aboriginal and Torres Strait Islander people, as a key part of achieving self-determination in practice to ensure that their voices are represented to government.

Closing the Gap

64	<p>Labor supports developing additional Closing the Gap targets in partnership with First Nations peoples and organisations:</p> <ol style="list-style-type: none">1. Cut the disproportionate rates of family violence against Aboriginal and Torres Strait Islander women and children to close the gap by 2040;2. Eliminate the over-representation of Aboriginal and Torres Strait Islander children in out-of-home care by 2040; and3. Close the gap in over-crowded housing and homelessness between First Peoples and non-Indigenous Australians by 2040.4. Close the gap in the rates of imprisonment between Aboriginal and Torres Strait Islander people and non-Indigenous people by 2040, with an interim target of halving the gap by 2030;5. Close the gap in the disproportionate rate of Aboriginal and Torres Strait Islander children in prison by 2040, with an interim target to halve the gap by 2030; <p>(See – NFVPLS Closing the Gap Refresh submission)</p>
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Homelessness

143	<p>Increase funding for mainstream and community controlled early intervention and homelessness prevention services through a Safe Housing Fund to increase transitional housing options, including culturally safe housing options and associated supports, for women and children escaping family and domestic violence young people exiting out-of-home care and vulnerable older women on low incomes who are at risk of homelessness;</p> <p>Ensure that people experiencing homelessness or at risk of homelessness have increased access to mainstream universal social services, such as employment including health and legal services;</p>
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Gender Equality and Women's Rights

Recommended amendment	
171	<p>Labor will work to achieve gender equality in Australia through:</p> <ul style="list-style-type: none">- Prioritising funding of culturally safe early intervention and prevention programs that increase knowledge of legal rights, build resilience and reduce vulnerability to violence (such as the work of FVPLSs);- Establish a National Aboriginal and Torres Strait Islander Women's Gathering to support the sharing of knowledge, promotion of leadership, building of networks and relationships, and identifying priority issues for change (see Redfern Statement Family Violence and Justice Workshop Communique).- Adequate and secure resourcing of specialised Aboriginal and Torres Strait Islander community controlled peak organisations, including policy capacity, to ensure that Aboriginal and Torres Strait Islander women's voices are represented to government.

Preventing Violence Against Women and Children

Recommended amendment	
174	<p>National leadership is required to coordinate judicial and social services reform across jurisdictions to better deal with family violence and sexual violence in a new comprehensive national strategy.</p> <p>Labor will:</p> <ul style="list-style-type: none"> • Support victims and survivors of family violence going through court by resourcing community legal assistance including culturally-appropriate support for Aboriginal and Torres Strait Islander people by reinstating the National Family Violence Prevention Legal Services Program with a direct allocation of funding as well as increased funding to enable national coverage and meet demand; • lift the Commonwealth funding restrictions for servicing only certain identified rural and remote areas for specialised, culturally safe services such as Family Violence Prevention Legal Services, and allow for urban coverage • Improve the capacity of the judicial system to deal with family violence, including comprehensive family violence and cultural awareness training • Deliver more certainty for homelessness services supporting women and children escaping family violence situations, including culturally safe housing and associated supports for Aboriginal and Torres Strait Islander women and children affected by family violence; • Deliver targeted primary prevention and early intervention for victims, perpetrators and children • Work with Aboriginal and Torres Strait Islander specialist organisations to develop and implement a national, holistic, whole-of-government plan through COAG to reduce the rates of violence against Aboriginal and Torres Strait Islander women and children, including a concrete implementation plan, a target to reduce violence rates, and oversight including Aboriginal and Torres Strait Islander representative bodies with expertise in family violence; • Establish a specific National Taskforce to investigate deaths of Aboriginal and Torres Strait Islander women who have been in contact with the justice system, to investigate and report on the causes of deaths, including the role played by experiences of family violence, to make comprehensive recommendations for systemic change (see Redfern Statement Family Violence and Justice Workshop Communique). • Address fragmented responses to family violence, including: <ul style="list-style-type: none"> -commitment to long term and secure (ie at least 5 yearly) funding commitments for specialist, culturally safe, holistic services; and -national coverage of specialist, culturally safe legal services such as FVPLSs; • Provide culturally competent support through cultural awareness training for appropriate responses in the justice system, family violence system, children and families or broader social services and mainstream organisations as well as appropriate recognition, resourcing, partnership and referral systems with culturally safe Aboriginal and Torres Strait Islander community controlled services.

Children and Families

Recommended amendment	
189	<p>Labor believes that the connection to culture, country and kin is critical to the wellbeing of First Nations Children. We recognise the need for Indigenous led services and culturally</p>

191	<p>competent child protection systems and recognise that the number of children in out of home care in Australia, particularly First Nation Children, is unacceptably high.</p> <p>Labor will develop a national approach to children and the law, which will:</p> <ul style="list-style-type: none"> • Recognise the best interests and wellbeing of the child as a primary consideration; • Set standards for court procedures where children are involved as witnesses, victims or offenders; • Set standards for support, counselling and rehabilitation services for child victims and offenders within the criminal justice system, particularly as they relate to the recommendations of the Royal Commission into Institutional Response to Child Sexual Abuse; • Support research into causes of juvenile crime; • Continue to support the work of the National Children’s Commissioner • Enact a national Aboriginal and Torres Strait Islander child protection notification and referral system to ensure Aboriginal and Torres Strait Islander families in contact with the child protection system are linked into independent, culturally safe, preventative legal services at the earliest possible stage (see Redfern Statement Family Violence and Justice Workshop Communiqué) • Support children, families and communities to stay safe and strong by resourcing holistic support to meet women’s and children’s needs, including targeted, Aboriginal and Torres Strait Islander community controlled programs; • Adequately fund Aboriginal and Torres Strait Islander community-controlled legal and other support services to support Aboriginal and Torres Strait Islander women and children in contact with the justice system;
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Removing discrimination

Recommended amendment	
211	All people are entitled to respect, equality, dignity and the opportunity to participate in society free of hatred or harassment and receive the protection of the law regardless of their race , sexual orientation, gender identity or intersex status.

Justice in the Community

Recommended amendment	
219	Labor will ensure the Commonwealth’s investigation, prosecution, defence and judicial processes are separate, independent, culturally competent, trauma informed , adequately resourced and appropriately accountable.
224	Labor will provide national leadership to resource our system of legal aid in partnership with the states and territories. Labor will support general and specialist community-based legal services, including community-controlled Aboriginal and Torres Strait Islander Legal Services and Aboriginal and Torres Strait Islander Family Violence Prevention Legal Services , clinical legal education schemes and pro bono clearing house services.

Family Law

Recommended amendment	
231	For Aboriginal and Torres Strait Islander victim/survivors of family violence, ensure access to appropriately resourced, culturally safe and specialist legal advice (such as that provided by

232	<p>FVPLSs) for all stages of family law matters, including family dispute resolution. (Note: This is essential due to the power imbalance and complex barriers Aboriginal and Torres Strait Islander women face to accessing justice and safety – see NFVPLS ALRC Family Law Review submission)</p> <p>Labor will develop and implement measures to ease the anxiety and stress of family breakdown. In particular, Labor will ensure:</p> <ul style="list-style-type: none"> • The rights of children are paramount; • There is a just division of relationship property; • The important and valuable contribution of a partner to family care and homemaking is recognised; • The Family Law system protects those at risk of family violence or child abuse, including access to appropriately resourced, culturally safe and specialist legal advice and assistance; • The particular needs, customs and practices of diverse cultures are appropriately respected; • Children are not disadvantaged by the structure of their family or by the circumstances of their conception; • Disputes are resolved in a timely, culturally safe, trauma informed, effective and affordable way; and • Litigation in the family law court system is efficient , culturally safe, trauma informed and streamlined.
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