

Session - Evaluation & Monitoring of the Domestic and Family Violence Protection Act (1989) Workshop

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DRAFT EVALUATION FRAMEWORK DOMESTIC AND FAMILY VIOLENCE PROTECTION ACT 1989

INTRODUCTION

The following presentation is an outline of a draft framework for evaluating the Domestic and Family Violence Protection Act 1989 over the next 3 years. The draft framework has been developed after consultation with numerous stakeholders by the Violence Prevention Unit. A key role of the Violence Prevention Unit is to administer and monitor the domestic violence legislation.

First implemented in 1989, the *Domestic Violence (Family Protection) Act 1989* provided for the protection of people in spousal relationships experiencing abuse or violence. The legislation has been subject to a number of amendments since implementation, including amendments in 1999 to include people experiencing abuse in same-sex relationships.

The Department of Families, in conjunction with the Queensland Domestic Violence Council (QDVC) undertook a review of the *Domestic Violence (Family Protection) Act 1989* over 5 years from 1996-2001. That review identified a need to provide civil legislative protection from abuse relationships not covered in the Act such as abuse between family members, abuse of people by their informal carers and abuse in some dating relationships. As a result of this review the current legislation was amended to extend the coverage of the Act.

On 8 March 2002 the *Domestic Violence Legislation Amendment Act 2002* was passed in Parliament. The *Domestic Violence Legislation Amendment Act 2002* amended the *Domestic Violence (Family Protection) Act 1989*, retitled that Act as the *Domestic and Family Violence Protection Act 1989* and extends protection to people who are abused in intimate personal relationships, family relationships and informal care relationships.

Proclamation of the amendments to the Act were delayed for 12 months to allow time for relevant Departments and community organisations to prepare effective responses to the broader range of domestic relationships to be covered under the *Domestic and Family Violence Protection Act 1989*. The Amendments commenced on 10 March 2003.

THE CHARACTERISTICS OF THE ACT

Section 3A of the *Domestic and Family Violence Protection Act 1989* (the Act) outlines the purpose of the Act:

...to provide for the safety and protection of a person in the case of domestic violence committed by someone else if any of the following domestic relationships exist between the two persons:

- 1. A spousal relationship;*
- 2. An intimate personal relationship;*
- 3. A family relationship; and*
- 4. An informal care relationship.*

It does this by allowing a court to make a domestic violence order for the protection for the person against further domestic violence.

Prior to this amendment of the Act, only people in spousal relationships could apply for a domestic violence order.

The amendments to the Act also extend to the range of people who can apply for a domestic violence order on behalf of the aggrieved. Apart from the aggrieved, an authorised person or a police officer, or a person acting under another Act can also apply. This includes:

- A person who is a guardian for a personal matter of the aggrieved, under the *Guardianship and Administration Act 2000*;
- The adult guardian and they consider the aggrieved does not have the capacity to make an application for a protection order; and
- A person appointed as the aggrieved's attorney under an enduring power of attorney under the *Powers of Attorney Act 1998*.

The amendments to the Act also:

- Enable children and young people (individuals under 18 years) to apply for, and be respondents to, applications for protection orders in spousal, intimate personal and informal care relationships;
- Include special provisions for the protection and support of children and young people under 18 years; and
- Allows the Court to notify the Adult Guardian where there is domestic violence involving an adult with impaired capacity.

EVALUATION OF THE ACT

With the introduction of new amendments to the legislation in March 2003 it was thought timely to commence an evaluation of the Act. Both Government and non-Government stakeholders had expressed concern about the possible impact of the broadening of the Act on existing services and agencies. Furthermore, since the commencement of the Act in 1989 there had never been an evaluation of the overall effectiveness of the Act in achieving its stated purpose: *providing for the safety and protection of a person in the case of domestic violence*.

LITERATURE REVIEW

The framework for the evaluation of the *Domestic and Family Violence Protection Act 1989*, in part draws on the evaluation frameworks of similar legislation in other jurisdictions. Legislation providing for the power of courts to make civil orders to protect people in spousal, dating and family relationships against domestic and family violence exists in all states and territories. However there are discrepancies in the legislation with regards to the categories of relationships and people eligible to apply for orders. Nevertheless the evaluations in other jurisdictions usually share a common objective of assessing the effectiveness of the particular legislation in providing for the protection of people from domestic violence. They also assess the operation of the legislation including the court process, the police response and provision of support and assistance to those seeking to utilise the legislation.

In some respects this framework draws on the other evaluations in order to enhance the opportunity to compare and validate the findings of the evaluation of this Act in comparison to similar legislation in other jurisdictions.

New Zealand, New South Wales and Western Australia have all conducted evaluations or reviews of their domestic violence legislation.

DOMESTIC VIOLENCE ACT 1995: PROCESS EVALUATION, NEW ZEALAND

New Zealand conducted a process evaluation of the domestic violence legislation, examining the accessibility and operation of the Act.¹

The aims of the evaluation were to:

- Provide an understanding of the dynamics of the operation of the Act;
- Provide descriptive information for selected districts and nationally;
- Identify existing potential problems with the operation of the Act; and
- Identify aspects of the Act that are working well in relation to the object of the Act.

The evaluation occurred over a three-month period in 1998, two years after implementation of the Act. The evaluation utilised a database study examining domestic violence order breaches over a three-month period, a review of 100 files and a survey of Judges (N= 19), Domestic Violence Court Coordinators (N= 16) and lawyers (N= 88). Key Informant Interviews were also conducted with Judges, Domestic Violence Court Coordinators, lawyers, police, private process servers, program providers and community groups. Interviews were also conducted with protected persons (N= 41), respondents (N= 43) and potential applicants (N =27). Case studies of best practice were reviewed. The findings of the evaluation were discussed in relation to:

a. Views on the Act:

- Does the Act achieve its objectives;
- Is the broadening of the Act good;
- Other provisions in the Act.

b. Access to provisions in the Act:

- General barriers to access; and
- Barriers for specific groups of people

c. Implementation issues:

- Issues for applicants;
- Issues for respondents;
- Issues for courts; and
- Issues for police.

d. Enforcement

AN EVALUATION OF THE NSW APPREHENDED VIOLENCE ORDER SCHEME

New South Wales conducted an evaluation of the NSW Apprehended Violence Order Scheme, assessing its effectiveness and user satisfaction.²

The purpose of the evaluation was to determine:

- Whether apprehended violence orders reduce risk, frequency or severity of violence experienced by protected persons from the defendant;
- Satisfaction of protected persons with services provided by police and magistrates/ courts; and
- Whether alcohol was a factor in any of the incidents of violence.

The evaluation occurred over a 10-month period, nine years after implementation and utilised survey methods, interviewing the aggrieved when the order was granted at 1, 3

¹ Domestic Violence Act 1995: Process Evaluation. April 2000, Ministry of Justice and Department for Courts, New Zealand.

² An Evaluation of the Apprehended Violence Order Scheme, New South Wales Bureau of Crime Statistics and Research 1999.

and 6-month intervals after the order was served on the respondent. The sample size used at the initial survey phase was 250 participants and with attrition was 59 at the final phase.

The findings of the evaluation were discussed in relation to:

- If there was a reduction in violence, abuse and harassment after the order was served on the respondent;
- Level of satisfaction with magistrates and police in relation to whether the complaint was taken seriously, whether the magistrate or police were sympathetic and whether sufficient information was provided; and
- Level of breached of orders during follow up period and whether they were reported to police.

REPORT OF THE EVALUATION OF THE FIRST SIX MONTHS OF OPERATION OF THE RESTRAINING ORDERS ACT 1997 WESTERN AUSTRALIA.

Western Australia have conducted a review of their legislation and a short term and longer-term evaluation. The first evaluation was an effectiveness and process evaluation of the first six months of operation of the domestic violence legislation in 1997.³

The aim of the evaluation was to:

- Assess the Acts effectiveness in providing access to protection, with particular emphasis on the roles of court and police services; and
- Assess its impact on the administration of court and police services

The evaluation utilised quantitative and qualitative measures. Quantitative measures utilised data from government databases. Qualitative methods included questionnaires completed by aggrieved (N= 31) and respondents (N= 21), written submissions, forum discussions and telephone interviews.

Findings were discussed in terms of increase in access to justice services, timeliness of service and the effectiveness of an application.

³ Department of Justice (1998) Report of the Evaluation of the First Six Months of Operation of the Restraining Orders Act 1997, Policy and Legislation Division, Western Australia

A REPORT ON A REVIEW OF LEGISLATION RELATING TO DOMESTIC VIOLENCE WESTERN AUSTRALIA

In 2000, Western Australia reviewed the legislation relating to domestic violence, comparing the Western Australian legislation with equivalent legislation in other Australian states, Canada, New Zealand, the United Kingdom and the United States.⁴

AN EVALUATION OF THE RESTRAINING ORDERS ACT 1997

In 2002, Western Australia conducted an Evaluation of the Restraining Orders Act 1997, five years after implementation.⁵ The evaluation used the 6-month evaluation of the Act as a baseline and reviewed management and effectiveness of restraining orders following the introduction of the Act by reviewing:

- Trends in the application, issue and breaches of restraining orders for 1999-2001;
- The profile of applicants and respondents of restraining orders;
- The effectiveness of the management of restraining orders and associated services;
- Models of service delivery that provide best practice examples; and
- Whether restraining orders truly protect victims of violence and misconduct.

The evaluation used an analysis of Police, Justice and Legal Aid data, interviewed Court staff, Magistrates, Police, Refuges and advocacy groups at 11 locations in metro, regional and rural locations and reviewed and tracked a statistically significant sample of restraining order applications.

Results were discuss in relation to:

- Trends in application and issue of Restraining Orders;
- Profile of applicants and respondents;
- Process of Restraining Orders;
- Effectiveness;
- Barriers to accessing protection;

⁴ Department of Justice (2000) A Report on a Review of Legislation Relating to Domestic Violence, Government of Western Australia, Western Australia.

⁵ Auditor General for Western Australia (2000) A Measure of Protection: Management and Effectiveness of Restraining Orders, Western Australia

- Administration of Restraining Orders;
- Timeliness;
- Police response;
- Legal Aid;
- Victim Support Services; and
- Effective models of best practice.

AIMS OF THE EVALUATION OF THE DOMESTIC AND FAMILY VIOLENCE PROTECTION ACT 1989 (Queensland)

The specific aims of the evaluation of the *Domestic and Family Violence Protection Act 1989* are to:

- Assess the effectiveness of the *Domestic and Family Violence Protection Act 1989* in achieving its stated purpose to provide for the safety and protection of a person in the case of domestic violence; and
- Assess the impact of the changes to the legislation on Government and non-Government services; and
- Identify the characteristics of those who access the Act and barriers to access.

METHODOLOGY

The evaluation will include:

- A literature review of existing domestic and family violence legislation in Australia and internationally;
- A process evaluation;
- An impact evaluation; and
- Monitoring.

The evaluation involves the systematic collection of data by a range of agencies. It utilises a multi-level design, with a combination of qualitative and quantitative data analysis methodologies including:

- Database of statistics from Courts, Police and Legal Aid;
- Database of statistics from non-Government domestic and family violence services;
- Opinion and attitude surveys (Likert scales, multiple-choice questions, open-ended questions) from domestic violence service providers, clients of domestic violence services; police, solicitors and court workers;
- Case law and case study examples; and
- Information from key informants through ongoing monitoring of the Act.

PROCESS EVALUATION

In this framework a process evaluation refers to the first stage of the evaluation which will occur over a 12-month period. The process evaluation seeks to understand the functioning of the legislation.⁶

OBJECTIVES OF THE PROCESS EVALUATION

The objectives of the process evaluation are to:

- Assess the effectiveness of the Act in meeting its stated purpose;
- Identify the characteristics of those who access the Act and the barriers to access; and
- Assess the impact of the broadening of the Act on Government and non-Government agencies.

IMPACT EVALUATION

⁶ Owen, J and Rogers, P (1999) Program Evaluation: Forms and Approaches. Allen and Unwin, NSW.

Impact evaluation is the second stage of the evaluation and is used to assess the impact of a settled program, assessing the extent and level of attainment of specific objectives, determination of the level of performance or examining intended and unintended outcomes.⁷

The impact evaluation will occur after the process evaluation is completed, over a two-year period. The framework for the impact evaluation will be developed utilising the results of the process evaluation and will consider the long-term impact of the broadening of the Act on Government and non-Government agencies.

MONITORING THE ACT

The evaluation of the Act will also be informed by ongoing monitoring of the legislation by the Department of Families in partnership with a range of Government and non-Government agencies that respond to domestic and family violence including the Queensland Domestic and Family Violence Council. The monitoring of the *Domestic and Family Violence Protection Act 1989* is part of the core business of the Violence Prevention Unit in the Department of Communities.

The framework for monitoring the Act is informed by the issues identified during the preparation for proclamation. These issues, documented in a Plan for Preparation for the Proclamation of the Act, were identified by:

- research and review of issues raised in previous consultations;
- feedback provided by members of the Domestic Violence Legislation Reference Group; and
- workshops held with key stakeholders during the preparation period.

Monitoring will occur through the Department of Families consulting with Government and non-Government service providers including:

- domestic violence and court support workers;
- Magistrates;
- Solicitors; and
- Police.

Data collection from Government and non-Government agencies will also inform the monitoring of the Act.

PRIORITIES FOR MONITORING

The issues in the framework for monitoring the Act are those identified as priorities for regular, ongoing monitoring. While there may be some duplication with issues identified in the process evaluation, the close monitoring of these issues is necessary rather than await the outcome of the process evaluation.

Broadly the preparation for proclamation of the Act raised the following issues important for ongoing monitoring and evaluation:

- The impact of the Act on domestic violence and other services, including Government agencies;
- The impact of the Act on the response to spousal violence, including the need to maintain a gender analysis;
- The issues for people in informal care relationships, including their access to the legislation and to associated support services (including legal representation and the Adult Guardian);
- The process for hearing applications with more than one respondent;

⁷ Owen, J and Rogers, P (1999) Program Evaluation: Forms and Approaches. Allen and Unwin, NSW.

- How the domestic violence, youth justice and child protection legislative frameworks interact to provide protection for children and young people;
- The process for hearing children's applications including their access to representation;
- The process for service on children and their parents;
- The response to children who breach domestic violence orders;
- Issues for Indigenous people and communities; and
- The extension of Temporary Protection Orders under section 34B.

In addition the monitoring process will also focus on key aspects of the operationalisation of the Act including:

- Hearing process;
- Service;
- Police response;
- Court process;
- Access to legal representation;
- Family Law provisions;
- Residential Tenancy Act provisions; and
- Forms.

ETHICAL AND PRIVACY CONSIDERATIONS

The Australasian Evaluation Society's Program *Evaluation Standards, Code of Ethics, Guidelines for the Ethical Conduct of Evaluations* and Principles ⁸will be adhered to and the following additional ethical and privacy issues have been identified:

- All information collected will be non-identifying;
- Information that is reported will be done so at a level to avoid client or participants identification;
- Participant and client confidentiality will be respected;
- Special considerations will be made for the inclusion of feedback from children and young people and the many ethical issues considered prior to any involvement; and
- Privacy guidelines and legislation will be adhered to.

STAKEHOLDERS

As the lead agency in relation to the Act the Department of Communities will conduct the evaluation. Stakeholders in the evaluation include:

- People affected by domestic and family violence;
- Domestic and family violence service providers;
- The Queensland Centre for Domestic and Family Violence Research;
- Other non-Government agencies which may have contact with people who are protected by the Act;
- Queensland Police Service;
- Department of Justice and Attorney-General
- Judiciary;
- Legal Aid Queensland;
- Legal Practitioners;
- Queensland Domestic and Family Violence Council;
- Queensland Domestic Violence Services Network (QDVSN);
- Domestic Violence Court Assistance Network (DVCAN); and
- Combined Women's Refuge Group (CWRG).
- Office of the Adult Guardian

⁸ HYPERLINK <http://www.aes.asn.au>, accessed 13 May 2003

- Queensland Health

The Queensland Centre for the Prevention of Domestic and Family Violence is a major partner in the evaluation of the Act. The Prevention Centre will collect and collate data from non-Government domestic and family violence service providers.

Workshop Notes

- Process of Evaluation – 1 year. First year of new legislation.
- Impact evaluation – 1 year following process evaluation over a 2 year period.
- Data collection via
 - Courts
 - Police
 - Legal Aid Qld.
 - Adult Guardian
- Non – government services working with domestic & family violence.
- Stakeholder surveys – information will help guide collection
 - Government
 - Non-government
 - People affected by DFV

Process is growing and changing in response to feedback. Action learning model being used.

- Negotiations underway to create a single and uniform data collection system across government & non-Govt sectors, statewide.
- Current concerns exist re DOF? Requirements for services to collect other data for service agreements – extra demands on services for expanded data collection.
- Recommendations from the evaluation may result in some changes to the legislation's.
- Evaluation will also draw on concurrent research eg. Townsville & CMC.
- Data will be taken back to and interpreted by key people stakeholders.
- A need for some evaluation which identifies trends
 - interstate orders
 - cross applications
 - taking up cross applications
 - court staff responding to & prioritising applications
 - police prosecutor & magistrates responses.

This will not be a part of the process/impact evaluation process, but may result in some research that may benefit broader evaluation and uniform future training needs.

- Data collection forms are being developed and reviewed in line with feedback from stakeholders.
- Data collection will commence July 1st.
- DoF – Key responsibility for evaluation.
- QCPDFV
 - will have data collection from on website from completion & submission
 - can aggregate date & make available on website.

Workshop Issues

- Interstate orders – police acting on national registering.
- Family category – over use, appropriateness.
- Informal cause being applied for under relative.
- Gender analysis, age, disability
- Cross application

- Double up on data collection by region & evaluation.

Suggestions / Recommendations

- Monitor above issues
- Resolve issue of double up of data collection by region & evaluation.