

**Response to
Government of South Australia's
Domestic Violence Discussion Paper**

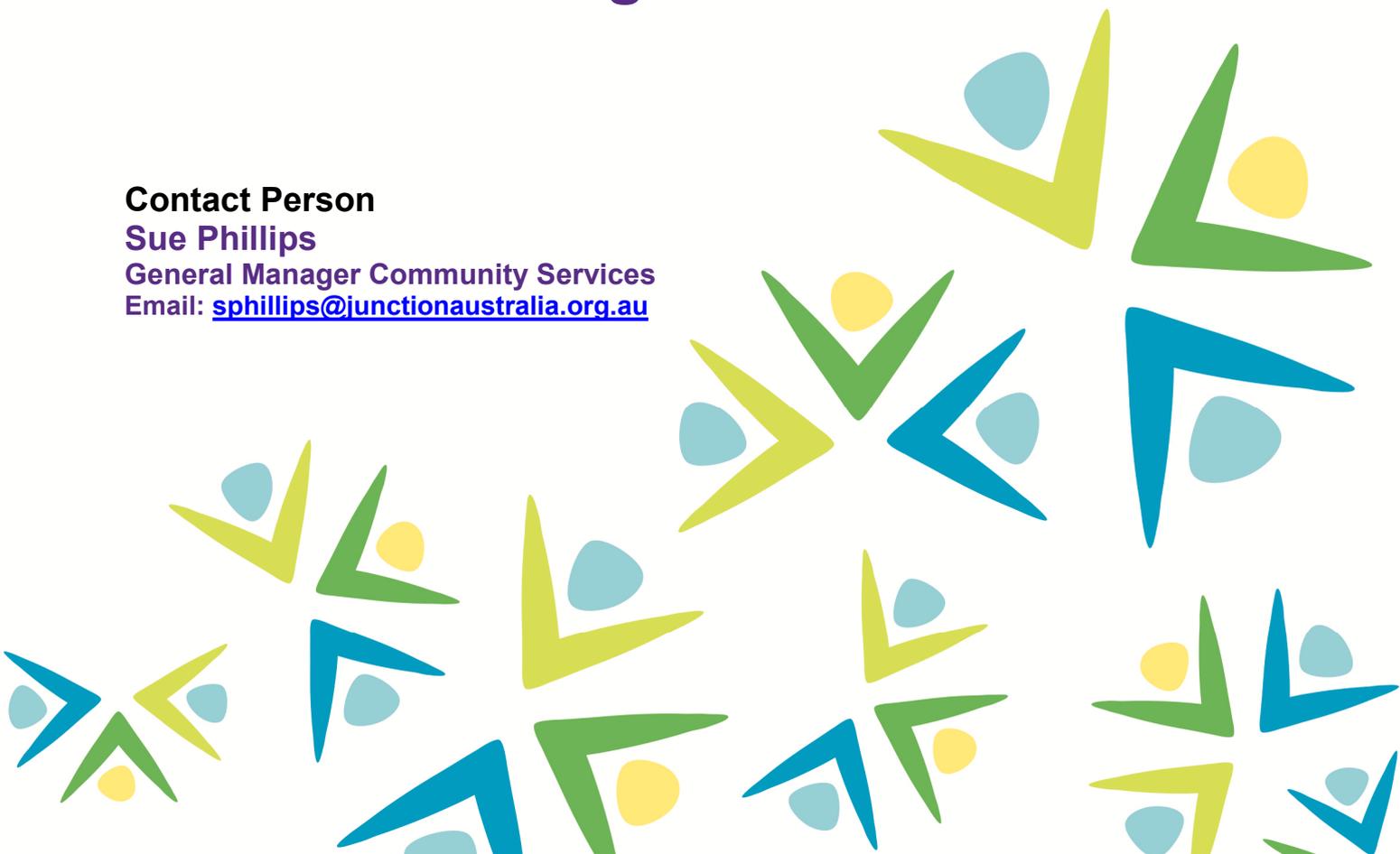
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Response to South Australian Government Domestic Violence Discussion Paper July 2016

Background

Junction Australia (JA) is an independent, community based organisation that has been providing a wide range of services to disadvantaged communities across South Australia since 1979. These services include support services for people who are homeless and/or have experienced domestic violence, counselling, supported accommodation for homelessness young people and residential care for young people under Guardianship of the Minister. JA delivers the specialist domestic violence service for the Fleurieu Peninsula and Kangaroo Island. As a result, JA regularly interacts with women and children experiencing Domestic Violence, and our staff sees the devastating effects of this on a daily basis.

In addition, as a Tier One registered housing provider of social and community housing in South Australia, we are currently the largest non-government provider of social housing for women who have experienced domestic violence.

Reducing domestic violence is a strategic priority for JA and we are committed to increasing the positive outcomes and housing options available for women and their children who have experienced domestic violence. We are actively involved in numerous state and regional level collaborations, round tables and networks that focus on improving the safety of women and children. In addition Sue Phillips, General Manager Community Services, is the Chair of the Australian Children's Safety Alliance (ACSA). ACSA is a group of South Australian non-government and government organisations that have joined together with the primary aim of improving practice and systems at the intersection of domestic violence and child protection. Accordingly, ACSA is interested in the promotion and implementation of the Safe and Together Model¹ across Australia. The model seeks to intervene with perpetrators of domestic violence and hold them responsible for their behaviour, engage with them as parents, partner with the non-offending parent to improve safety, and keep children safe and together with the non-offending parent wherever possible.

We appreciate the opportunity to give comment on these important issues. A panel of JA staff have provided input into this submission which addresses the 8 specific topic areas outlined in the Discussion Paper.

Response to Consultation Questions

1. Domestic Violence Disclosure Scheme

- Junction Australia supports the introduction of a Domestic Violence Disclosure Scheme as it has the potential to improve safety for women and to hold perpetrators to account for their abusive behaviour.
- JA believes that disclosures should not be limited and that any party with a valid reason should be able to apply for the information about previous domestic violence incidents.

- However, information should only be disclosed if there has been a criminal conviction or a confirmed intervention order.

2. Expiry Dates on Intervention orders

- JA does not support the introduction of expiry dates on intervention orders. Currently, a perpetrator can apply to have an intervention order removed, and with the consent of the victim, this can occur.
- We do not believe the onus should be on the victim to keep proving that their safety is at risk, but rather that the onus should be on the perpetrator to prove that they no longer pose a risk. For this reason we support the continuation of the current system.

3. Comprehensive Collection of Data

- Junction Australia supports the development of a consistent definition of 'domestic violence' that includes both physical and non-physical forms of domestic violence and abuse. This could be consistent with the definition used in the Intervention Orders (Prevention of Abuse) Act 2009, but should also be in line with a national definition when it is developed.
- We do not believe it is necessary to introduce specific offences relating to domestic violence, as domestic violence behaviour is already illegal under existing legislation. While there are often difficulties in obtaining sufficient evidence to secure convictions for domestic violence offences, the introduction of new offences would not address these problems.
- We support the identification of domestic violence offences on police and court databases, including intervention orders, using a 'flag' system and a new, agreed definition of domestic violence, as mentioned above. This will enable accurate monitoring and reporting of domestic violence offences in South Australia.
- Both police and courts should be required to apply a domestic violence flag to offences where appropriate. This data should be used for safety planning by police, by courts to establish a pattern of behaviour and in sentencing, and by both parties for reporting purposes.
- JA supports the regular publication of up-to-date domestic violence statistics for South Australia by the South Australian Government, for access by the non-government sector, local governments and the general public. These statistics should be available by useful geographical areas (such as suburb, postcode and local government area), to enable a range of very important activities including service planning, funding prioritisation, monitoring and evaluation. Similarly, all government departments should have access to, and use, this data for service planning, funding prioritisation, delivery and evaluation.
- We believe that domestic violence should be named as such on all relevant intervention orders and convictions, as well as the specific behaviours or offences, to reinforce the nature and impact of the actions of the perpetrator.
- In addition to the above, we believe that agencies working in domestic violence, homelessness and support services should be able to flag an alleged domestic violence perpetrator on the Homelessness2Home (H2H) data recording system. This would be for internal use, to alert service providers to any potential dangers relating to the individual's current and future partners. We note that although this is currently possible using case notes, we believe a separate flag variable would make this information far more useable and effective.

4. Allowing Video Evidence

- JA supports the use of body cameras by police to record video evidence in domestic violence cases, and the use of this evidence in court. Accordingly, we support the amendment of the

Evidence Act 1929 so that video recordings can be considered by a court in matters involving criminal charges or an intervention order.

- We support the use of video evidence without the consent of the victim, as it protects victims from being coerced by perpetrators into withdrawing their consent to use the video evidence. However, we note that there are potential risks associated with using the evidence without victim consent. These include the possibility that victims could be coerced by police into prosecuting their partners when they do not want to, and the danger that the evidence from a single incident will fail to capture the complexity and ongoing nature of domestic abuse and possibly misrepresent the situation. In light of these risks, we would recommend that if such a change is made to the Evidence Act, that the impact of this change, including any unintended consequences, be reviewed after a reasonable period of time. This review process should include input from all relevant parties, including the non-government support agencies and victim advocates.

5. Confidentiality

- JA supports the amendment of the Evidence Act 1929 to extend the client privilege currently applied to sexual assault victims, to all domestic violence victims. This should apply to case notes where a victim has made a disclosure regarding domestic violence and where the service provider is a qualified domestic violence counsellor. These case notes should be protected from being subpoenaed by the defence as this will prevent them from becoming available to the perpetrator.
- In principle, we support notes from domestic violence counselling being admissible as evidence at the request of the victim. This is because such case notes may provide important evidence to aid the case of the prosecution, and we support the right of the victim to use such evidence in this way if needed. However, we acknowledge that in reality this may be difficult to implement and could have unintended consequences. We encourage the government to follow the advice of legal experts in this area, in particular the Legal Services Commission, to ensure that domestic violence victims and their case notes are fully protected in legal matters relating to their abuse.

6. Drug and Alcohol Treatment

- There is evidence to link the risk of domestic violence to abuse of alcohol and other drugs by the perpetrator², and to indicate that the risk of serious harm is greater when the perpetrator has been drinking³. However, according to the Personal Safety Survey, the perpetrator was not influenced by drugs or alcohol in almost half of physical assaults perpetrated against women by men⁴. This indicates that alcohol and other drug use is only part of the problem.
- Anecdotally, JA has observed an increase in violent behaviours towards female partners by male partners who use methamphetamine or 'ice'.
- We support the court having the right to compel defendants to participate in alcohol and other drug assessment or treatment when the court believes that the domestic violence perpetration may be related to, or exacerbated by, problematic alcohol or other drug use. However, we believe that this should be at the discretion of the magistrate and do not support the mandatory referral of all domestic violence perpetrators appearing in court to alcohol and other drug assessment.
- Where the court does consider that a referral to alcohol and other drug assessment or treatment is warranted, this should not take the place of referral to a domestic violence related Men's Behaviour Change Program, such as the Abuse Prevention Program. Referral to the Abuse Prevention Program should take precedence over any alcohol and other drug

referrals, unless the alcohol or other drug use is so severe that it would prevent the defendant from properly participating in the Abuse Prevention Program.

- In addition referral to either an alcohol and other drug assessment or treatment program, or a Men's Behaviour Change Program should not be used as a substitute for a criminal conviction and appropriate sentencing response for domestic violence.
- JA believes that an increase in court referrals to drug and alcohol assessment and treatment services must be accompanied by an increase in resourcing for that sector, particularly in regional areas, in order to meet the increased demand and workload this would create.
- Regarding the extent to which the current programs are sufficient to meet the needs of defendants, we note the continued provision, and expansion of, the Abuse Prevention Program. We have voiced some concerns about this program in a previous submission⁵, including the literacy-based approach of the Moral Reconciliation Therapy (MRT) program, the limited availability of the program for men outside the metropolitan area (although note that this has improved somewhat), the lack of action taken in relation to many breaches of intervention orders, and the fact that support for women is withdrawn if the offender is not eligible for, or leaves, the program.
- In addition to the above, there is a lack of independent, peer-reviewed evidence for the effectiveness of the Moral Reconciliation Therapy (MRT) program, and very little evidence for its effectiveness in the South Australian context. We note that an evaluation of intervention orders was undertaken, but that empirically investigating the effectiveness of the MRT program itself was not an objective of that evaluation. We recommend a comprehensive outcome evaluation of the current program to assess its effectiveness in changing the abusive behaviour of domestic violence perpetrators and thereby improving the safety of women and children in South Australia.
- Australia's National Research Organisation for Women's Safety (ANROWS) has launched a Perpetrator Interventions Research Stream, including over \$3 million in grants to fund research into domestic violence perpetrator intervention programs. Although it will take several years for these projects to be completed and their findings available, JA recommends that the South Australian Government keep abreast of developments in this area and continue to shape its programs for domestic violence perpetrators according to these outcomes.
- JA does not believe in a 'one-size-fits-all' approach to Men's Behaviour Change Programs for domestic violence, and recommend the development of a suite of programs for men in different circumstances. Although we note that some alternative programs are available to Aboriginal men and men with culturally and linguistically diverse backgrounds, there are still considerable gaps for many men in rural and regional areas, and men for whom the existing program has not had any impact. We believe that the provision and expansion of comprehensive and evidence-based Men's Behaviour Change Programs should continue, and be monitored and reviewed on an ongoing basis.
- We support the implementation of the Safe and Together Model throughout all services that relate to domestic violence and child protection matters, both government and non-government. The model can fundamentally change the way service providers and the justice system approach both victims and perpetrators of domestic violence, particularly when children are involved. JA recommends that all courts staff dealing with domestic violence matters, particularly magistrates, receive training in using the model. The model can also assist to engage abusive men, who might otherwise be resistant, in discussions related to behaviour change from the perspective of their role as a father, rather than a partner.

- JA believes that additional government resources should be allocated to providing programs for perpetrators of domestic violence outside of the justice system, including voluntary programs based in the community. Many men who perpetrate domestic violence will never come to the attention of the legal system and it is important to provide services to help these men address their abusive behaviour before it escalates and draws a response from the criminal justice system.
- JA emphasises that domestic violence is a gendered issue, involving one partner exerting coercive control over their partner. Although programs to help perpetrators change their behaviour are a vital component of a strategy to reduce domestic violence, broader interventions that address the underlying social causes of domestic violence are also needed. We encourage the government to continue to tackle domestic violence at all levels of society, including gender equality as a means of primary prevention more broadly.

7. Housing and Homelessness Service priorities

- In recent times there has been an unprecedented focus on the problem of domestic violence in Australia. As a result of this, an increasing number of women are recognising themselves as victims and seeking the appropriate help. However, despite this increased focus on the issue, there has not been an associated increase in resources for specialist domestic violence services in South Australia since 2009. JA would like to see additional funding allocated to specialist domestic violence crisis and support services, in order to meet the current and future need of women and children leaving abusive relationships.
- JA notes that there is currently a lack of affordable housing for women with children and single women wanting to exit crisis accommodation. This needs to be addressed to enable these women and their children to move on with their lives and assist those women and children being accommodated in motels to be accommodated in a more supportive environment.
- There is currently a significant divide between the domestic violence and broader homelessness sectors. Domestic violence services provide a unique and specialist approach to women experiencing family and domestic violence, recognising the gendered nature of the problem. Victims of domestic violence will often present at generic homelessness services, but still need appropriate support and help in relation to the violence and abuse. We believe that this results in a dilution of the service response model for domestic violence and the model must be strengthened with increased resources to better reach out to and support domestic violence victims.
- Due to this considerable overlap of the work of the domestic violence and homelessness sectors, JA recommends that all homelessness workers should undertake mandated training in identification, and appropriate responses to, domestic and family violence. Clear operational guidelines for homelessness services should also be developed to better support women and children experiencing domestic violence.
- JA believes that Key Performance Indicators (KPIs) for specialist domestic violence services should be modified to reflect the sector's preference of taking a 'safety first' approach, rather than a 'housing first' approach. These KPIs should also be specific to acknowledged best practice for working with domestic violence.
- JA believes that the domestic violence sector would be better placed within the Office for Women, rather than being covered by the broadening scope of generic homelessness. JA supports the recommendation of the Social Development Committee Report into Domestic Violence and the Coalition of Women's Domestic Violence Services of South Australia's Position Paper, to make this structural change to ensure an appropriate and specialist response to domestic violence.

- Statistics indicate that the ratio of deaths and incidence of family and domestic violence in regional South Australia is proportionately higher than in metropolitan Adelaide⁶. Regional and remote services are significantly under-funded, many with little to no access to crisis and transitional housing properties, giving victims in smaller communities significantly less options and thus increasing the risk. This lack of access to crisis and transitional accommodation can also force victims to leave their local communities, leaving them further isolated from their support systems and networks. Regional communities also provide local services that understand the community and its needs and are well placed to advocate and support the clients they serve.
- There should be a greater emphasis on culturally specific service models for Aboriginal families and their kin, ensuring the response is specific to the needs of the community whilst placing the safety of the victim and her children at the centre. We can improve our understanding of cultural contexts by listening to and consulting with Aboriginal women and children. Rather than continuing to take a paternalistic view on what non-Aboriginal services believe will solve the issue we should engage with respected elders and community leaders to work with them.
- JA believes that providing support to domestic violence victims where the perpetrator is still engaged with the family is important as, for many reasons, not all families want or are able to separate. This is particularly relevant in Aboriginal families where the perpetrator will often remain in the same small community. Even when families do separate a comprehensive intervention must involve working with the perpetrator. If he is unable to access support to change his behaviour and attitudes towards women, he will move on to his next victim as the underlying problem will not have been addressed.
- The Safe and Together Model provides a framework in which to work with the family when the perpetrator is still engaged with the family. The model does not encourage women to remain in situations where they are not safe, but does offer ways to partner with the victim to empower them and assist with safety planning. It also provides an opportunity to engage with the perpetrator, monitor the risk he poses and move him toward behaviour and attitudinal change.
- JA supports training for police officers to emphasise the importance of holding perpetrators to account at all times. We encourage the adoption of the Safe and Together model by South Australian Police, including officer training. This will ensure appropriate interactions with both victims and perpetrators of domestic violence, and the clear and transparent documentation of domestic violence incidents (in line with evidentiary requirements).
- JA believes that women should be empowered to remain in the family home, where safe to do so, and further emphasis placed on holding perpetrators accountable for their actions. Accordingly we support the expansion of services such as the 'Staying Home Staying Safe' program and other initiatives that support victims to remain in their own homes if they wish to do so.
- Young people exposed to domestic and family violence will often be deeply impacted emotionally, psychologically, physiologically, developmentally and physically. Trauma-informed practice in the homelessness and domestic violence sectors is critical to breaking the cycle of endemic homelessness and subsequent violence for this group. JA strongly supports the homelessness and domestic violence sectors adopting a trauma-informed practice framework. This will aid in the successful transition of these young people into independent pathways.

8. Fostering Supportive Environments

- JA does not object to the Discrimination Act being amended to include domestic violence but we do not believe that changes to the Act are necessary to bring about workplace change. Furthermore, workplaces have an important role to play in addressing domestic violence and much work needs to be done in this area, in addition to any proposed changes to the Act.
- JA believes there should be a requirement for all workplaces to establish policies and procedures in relation to domestic violence. These should cover issues such as organisational culture, dealing with disclosures of victimisation by staff, managing workload and any performance issues for victims. This also needs to deal with disclosures of perpetration by staff (see final dot-point below).
- We agree that workplaces must support victims of domestic violence to feel comfortable making disclosures about domestic violence at work. The use of 'contact officers' who are not managers, but are trained in discussing personal matters with staff, may be a useful way to support domestic violence victims and encourage them to be more open in their disclosure of issues that may impact on their work performance. Staff, and managers in particular, should be trained to look for key identifying behaviours and how to appropriately approach, and respond to, staff that may be victims.
- Flexible work arrangements are an important support for victims, enabling them to attend appointments and look after their physical and mental health. Such arrangements could include not just flexible working hours but also changing work locations, phone numbers and even roles in the workplace if necessary and possible to help protect victims from perpetrators.
- JA believes that South Australian employers, including South Australian Government, need to consider and discuss appropriate employer responses when it becomes apparent that a member of staff is a perpetrator of domestic violence. Workplaces should be encouraged to develop policies and procedures around this to clarify the action the employer could exercise. This may include referral to counselling services or result in disciplinary action, including termination of employment due to a breach of an Employee Code of Conduct. This could also include police involvement if it emerges that the employee has used workplace time or resources to perpetrate the violence. Above all, workplaces cannot be tolerant or accepting of abusive behaviour by staff, in the same way that bullying or sexual harassment would not be tolerated.

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¹ See website for more information about this model: <http://endingviolence.com/our-programs/safe-together/safe-together-overview/>

² Abramsky T, Watts C, Garcia-Moreno C, Devries K, Kiss L, Ellsberg M, Jansen H and Heise L. What factors are associated with recent intimate partner violence? Findings from the WHO multi-country study on women's health and domestic violence. *BMC Public Health* 2011, 11:109. Accessed online 18/8/16 <<https://bmcpublikealth.biomedcentral.com/articles/10.1186/1471-2458-11-109>>

³ Graham K, Bernardis S, Wilsnack SC and Gmel G. Alcohol may not cause partner violence but it seems to make it worse: A cross national comparison of the relationship between alcohol and severity of partner violence. *J Interpersonal Violence* 2011, 26(8):1503-1523. Accessed online 18/8/16 <<http://jiv.sagepub.com/content/26/8/1503>>

⁴ Australian Bureau of Statistics. *Personal safety Survey 2012*. Accessed online 18/8/16. <<http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/4906.0Chapter6002012>>

⁵ Junction Australia. *Submission to the Social Development Committee of SA Parliament Inquiry into domestic and Family Violence*. January 2015.

⁶ Women's Services Network (WESNET). *Domestic Violence in Regional Australia: a literature review*. June 2000. Accessed online 18/8/16 <<http://wesnet.org.au/wp-content/uploads/2012/04/WESNET-Domestic-Violence-in-Regional-Australia-A-Literature-Review.pdf>>