

# Submission to Federal Parliamentary Inquiry into Family, Domestic and Sexual Violence

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## About Mid North Coast Community Legal Centre

Mid North Coast Community Legal Centre (MNCCLC) is a non-government organisation funded through the National Legal Assistance Partnership (NLAP) to provide free civil law legal assistance across 6 local government areas in NSW, from Taree to Coffs Harbour. We work closely with our sister service, Disability Advocacy NSW, under the auspice of Advocacy Law Alliance Inc.

MNCCLC was established in 2011 following a local Legal Needs Analysis which demonstrated the high level of legal need in this community. The MNCCLC office in Port Macquarie initially only served the 3 surrounding local government areas. In 2019, we received additional funding from the NSW Government to open a second office in Coffs Harbour due to the demonstrated legal need there.

MNCCLC’s service covers key areas of civil law including matters relating to debt, employment, traffic record, violent relationship, consumer issues, discrimination complaint or access to the NDIS. We are

embedded in our community, with local staff engaging and collaborating with other local services to provide free, responsive, professional and timely legal advice to the most disadvantaged members in our community.

This submission is informed by our experience delivering legal services to women experiencing violence in our catchment area. We trust that this is helpful for the Committee's deliberations into the next National Plan to Reduce Violence against Women and their Children.

We have chosen to provide information to the Committee in relation to several items from the Terms of Reference, identified separately below.

c) The level and impact of coordination, accountability for, and access to services and policy responses across the Commonwealth, state and territory governments, local governments, non-government and community organisations, and business.

#### **Recommendation 1:**

Government establishes a pool of funding for collaborative, flexible, cross sector initiatives to reduce violence against women and children.

MNCCCLC is a strong proponent of collaboration to support women experiencing violence. Collaboration reduces duplication and facilitates seamless cross referrals between agencies. It also allows amplification of our shared resources when raising awareness about the issue in the community.

MNCCCLC regularly collaborates to address issues around violence, in particular through local Domestic Violence Monitoring Committees (DVMCs). Our involvement with the Port Macquarie DVMC allows us to collaborate with other members such as Liberty Services (womens' support service), the local WDVCAS, Legal Aid, NSW Health, NSW Police and other key agencies.

This Committee meets regularly and includes sharing of agency information about the levels of, and responses to, domestic and family violence in our community. It allows for greater understanding by members of referral pathways, agency capacity and emerging issues. The Committee has also been active in collaborating to deliver projects aimed at raising community awareness of domestic violence, disseminating information about appropriate referral and response pathways, and equipping "bystanders" with knowledge to help them support people experiencing domestic violence.

Some of the key projects on which we have successfully collaborated include:

- "Cut It Out" Hairdresser's Breakfast – 2019 and planned again for 2020. This local event, part funded through the NSW Law Week grants program, was aimed at providing local hairdressers with an opportunity to find out about domestic violence, how it may affect their clients, and how to refer their clients appropriately and safely if they are experiencing violence. It took place from 7:45am – 9am, before hairdressers were needed in their workplaces. Speakers included

MNCCLC, Liberty Services, Legal Aid NSW and the WDVCS. It was a powerful opportunity for local hairdressers to share their experiences of clients who lived with violence. The feedback that the Committee received was that this was essential information being provided to a group of professionals who were at the forefront of delivering services to women experiencing violence.

- “Seeing Red”: in 2019 and 2020 Committee members and their colleagues dressed in red to raise awareness of the issues around domestic violence. In 2019 this involved hosting a collection of stalls in local shopping centres and business precincts, with information about local services. In 2020, with COVID19 restrictions in place, this moved online. Committee members invited other agencies such as the regional utility provider, the local Council, University, welfare agencies as well as members’ colleagues to again wear “a splash of red” and share a morning tea. Screenshot images of the online morning tea were uploaded to a Facebook event, which also featured videos provided by Liberty Services, training participants in how to identify, respond and refer issues of domestic violence. This was very well supported in the Port Macquarie community and further afield.
- “One Million Stars to End Violence” - the DVMC members participated in this campaign in 2017/8 in the lead up to the Gold Coast Commonwealth Games, again to raise awareness of issues of violence in the community. Members conducted workshops where participants folded paper stars as they learned about domestic violence. These stars were collected and hung as an art installation, with an explanatory information card in the local shopping centre, and then for a council ArtWalk event.

MNCCLC is one of a number of DVMC members supporting the local “LoveBites” training program which is being delivered to local high school students throughout the mid north coast of New South Wales. This support is in the form of two staff members being trained to help facilitate sessions in schools. LoveBites<sup>1</sup> aims to teach young people about healthy relationships and open conversations around respectfulness.

All of the activities of the local DVMC are delivered out of the core funding of each member’s budget. There are no separate, established funding streams to support the time or resources that each member donates to the Committee’s work. It is undertaken at our own cost as we value the collaborative work and recognise the impact that the activities have in our community. The strength of collaboration cannot be overemphasised, and for services involved in the DVMC who each traditionally run on a very lean budget, more can be achieved by collaboration than by any one service acting alone. It is also evident that a comprehensive response to domestic and family violence is best delivered by a range of services working collaboratively rather than any one service alone – legal services to provide one form of support, combined with women’s specialist support, court support and the protection of NSW Police, and child and family agencies to support the family unit as a whole.

Collaboration and coordination take time and agency effort and is often achieved through voluntary commitment. Creative, community focused activities are best delivered at times when community members are available – often not during business hours. Local service providers such as MNCCLC

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<sup>1</sup> <https://www.napcan.org.au/Programs/love-bites/>

frequently see staff use personal time to ensure that community awareness projects are supported on weekends and out of hours.

As such it would be ideal if there was capacity to support this with a dedicated additional funding pool, from which Committees could seek funds for local projects. The NSW Cooperative Legal Service Delivery (CLSD) program (delivered through Legal Aid NSW) provides an excellent model for this. Regional networks can (through a local Coordinator) apply for support to deliver a local project that is responsive to the needs of the local community.

d) The way that health, housing, access to services, including legal services, and women's economic independence impact on the ability of women to escape domestic violence.

**Recommendation 2:**

Greater attention is given by government to funding legal services which support women experiencing violence, and to encouraging sector-wide training in trauma-informed approaches to supporting women experiencing violence.

**New South Wales Victims Services Scheme - The Immediate Needs Support Package**

MNCCCLC supports the NSW Victims Services Scheme (VSS), although we remain concerned that a recent change in their process may impact adversely on disadvantaged women seeking their support. One arm of the VSS is to provide financial assistance for immediate needs – the “Immediate Needs Support Package” (INSP) which provides amounts up to \$5000 to enable victims of violence to improve their security at home; or to fund rent or new household items if they need to flee. We assist clients to make applications to the VSS and have seen the positive impact this payment has on the prospects of victims of violence.

MNCCCLC has found that there is a growing need for our help in completing and lodging Victims Services applications. At times of crisis and stress, clients have told us that they find seemingly straightforward things, like filling forms and gathering evidence, difficult. Not infrequently, our clients are also in unstable housing, have small children and may be living in fear. The value of our support in accessing the INSP means that they have an opportunity to start afresh.

VSS has recently changed their process to require applicants to the Scheme to collect their own evidence in support of their application. Prior to this change, in keeping with trauma informed practice, VSS was assisting applicants by collecting evidence on their behalf. Shifting the burden of collecting evidence to support the application onto the applicant will result in higher demand for supportive legal services to assist applicants. Further, requiring applicants to gather evidence risks re-traumatising victims of violence and places applicants who are subject to monitoring and technological abuse at risk of detection and retaliation by perpetrators. For some of our clients, this risk outweighs the potential benefits of applying to the Scheme.

*Case Story: Victims Services NSW - INSP*

*Samantha\* fled her violent partner Peter in June 2019 after he threw her into a wall and fractured her ankle. Peter had threatened Samantha with a gun if she ever left him or told anyone about the violence. Samantha was terrified of Peter but was really worried about the pain in her ankle and knew she needed to see a doctor. Samantha packed a few things into her car in the middle of the night while Peter was asleep and drove from their home in Sydney to her Mum's house in Coffs Harbour. Samantha's Mum lives in a Housing NSW property and Samantha was only able to stay with her for a short time while she looked for her own rental property.*

*Samantha saw a doctor who sent her for scans on her ankle. Samantha's ankle requires surgery that has been quoted to her at \$2300. Samantha runs her own business as a massage therapist but until she got this surgery she was unable to work as she experienced too much pain in her ankle while standing and massaging clients. Samantha could not afford this surgery.*

*Samantha got a rental property and used all her saving to pay the bond. Samantha did not have the funds to purchase essential household items like a fridge. When we met Samantha 6 weeks later she was already in rental arrears and facing eviction.*

*We assisted Samantha to apply for a Victims Services Immediate Needs Support Package. We wrote to Samantha's property manager and requested they hold off enforcing the debt for rental arrears while Samantha waited to receive the INSP. Samantha received a \$5000 INSP 4 weeks after the application was lodged. Samantha was able to pay off her rental arrears, get ahead in rent and purchase some of the household items she needed. Samantha also received a security package that enabled her to install an alarm system in her home.*

*Victims Services also funded Samantha's surgery and she has been able to return to work. Samantha is awaiting a recognition payment from Victims Services which we expect will be a Category C recognition payment of \$5000 for grievous bodily harm.*

### Access to Legal Help in Regional Areas

Women in rural and regional communities who experience family violence may be even more vulnerable to social isolation than those in metropolitan areas. Many communities are characterised by needing to travel extended distances to reach assistance; small, close-knit communities where privacy can be difficult to maintain; and town centres that have suffered recent downturns through drought and bushfire. The difficulties of legal service delivery in these conditions has a direct impact on the assistance that can be accessed by women experiencing violence.

MNCCLC has taken this opportunity to talk with colleagues in the community services sector on the Mid North Coast to gauge their views, based on their experiences of working with women experiencing violence. Feedback to our informal survey has highlighted the perception among workers that in small towns in regional areas, the major issues of concern are: insufficient access to emergency or transitional housing; the need for more safe spaces (particularly for women with a disability); a need for more staff in the community sector to be trained in trauma informed care; and underfunded support services limiting access to help for women.

### *Case Story: Women in Regional Areas*

*Cassie\* was living in a regional town until 2016, when she left a relationship marked by coercion and control. She had been with her partner for 13 years. After accessing some counselling and support for housing, she turned to the legal system for help with an AVO and with family law. However, her ex-partner had gone to the three local lawyers over the years and, due to issues with conflicts of interest, she was unable to find legal advice in her town. She was forced to travel over 100km each way to get the legal assistance she needed.*

MNCCLC would like to see additional funding for womens' legal services in each state to help them promote their services to local communities in regional areas, particularly where there is no Legal Aid or Community Legal Centre available. In Cassie's case, the local private lawyers had not heard of a womens' legal service and so she was never referred to them. She may have had immediate assistance if she had been able to link to Womens Legal NSW.

### *Economic Implications of Leaving a Violent Relationship*

There is a common sense among many of our clients that taking action to address violence in their relationships will have a significant economic impact on them and their children. Indeed, MNCCLC sees repeated situations where leaving an abusive relationship has resulted in severe financial disadvantage. It can take many months for a victim/survivor to recover financial independence and deal with the economic fallout.

### *Case Story: Economic Independence*

*Josie\* has a CALD background and limited English. She worked as a casual in the hospitality industry. When she fled a violent relationship with her 3 children, she had to relocate to a regional town that had poor transport and access to childcare. Although work was available close by, she was not able to apply for it, was in significant debt, and was dependent on local welfare and support services for some months. MNCCLC was able to assist with a VS application and with referrals to a financial counsellor to assist Josie to manage her debts. However, Josie remains in dire financial circumstances.*

e) All forms of violence against women, including, but not limited to, coercive control and technology-facilitated abuse.

#### **Recommendation 3:**

Parliament introduce legislation to provide a uniform definition of "domestic abuse" which incorporates an understanding of coercion and control when dealing with women experiencing violence.

### *Case Story: Coercion and Control*

*Mary\* was a client whose partner was extremely controlling, isolating her from family and friends over a number of years. Mary was required to censor or remove social media posts that her partner didn't like, was not allowed to use hot water to shower and was prevented from accessing finances to buy essential household supplies. Her partner took the car keys away to prevent her from leaving, and interfered with*

*her plans for support while in labour with her first child. Mary was not physically injured at any time in the relationship. Although Mary was eventually able to leave, her partner used the access he had to her financial and identity details to take out loans in her name and strip her account of emergency funding she had received. Mary's case suggests that there may be utility in considering the introduction of a general offense of "coercion and control" that would allow earlier intervention by authorities.*

MNCCCLC believes Parliament should consider an Australia-wide approach to including coercion and control in definitions of domestic and family violence. We note that a number of jurisdictions have taken steps to do this, with different approaches adopted. We are not in a position to assess fully the merits of each of these, but would like to draw the Committee's attention to the experiences of Tasmania<sup>2</sup>, Scotland<sup>3</sup> and England<sup>4</sup>. We particularly note that the expanded definition of "domestic abuse" in England provides a basis for crimes to be prosecuted under a range of offences - but the term is used to describe a range of controlling and coercive behaviours, recognised across government agencies to involve one person maintaining control over another with whom they have, or have had, an intimate or family relationship. This definition acknowledges the fact that domestic abuse is rarely a one-off incident and is the cumulative and interlinked types of abuse that have a particularly damaging effect on the victim and causes long term psychological injury to the victim. This would also allow victims of domestic abuse to access State and Territory victims support schemes.

We believe there may be utility in recognising a similarly broad definition of domestic and family violence in Australia where civil domestic violence protection laws are State-specific, to harmonise the terms across State and Federal government agencies. An extended definition would also lead to a greater awareness amongst community members that domestic violence does not just involve physical or interpersonal aggression, but wide-ranging and often long-term patterns of coercion and control.

h) The experiences of all women, including Aboriginal and Torres Strait Islander women, rural women, culturally and linguistically diverse women, LGBTQI women, women with a disability, and women on temporary visas.

#### **Recommendation 4:**

Government consider the particular needs of vulnerable women across Australia, and fund innovative, flexible and proactive legal service delivery to meet their needs. Government fund additional promotion of state based Womens' Legal Services across Australia and in particular to remote and regional communities, so that women everywhere can gain access to appropriate legal help in a timely fashion.

<sup>2</sup> McMahon, Marilyn & McGorrery, Paul. (2017). Criminalising emotional abuse, intimidation and economic abuse in the context of family violence: The Tasmanian experience. *University of Tasmania law review*. 35.

<sup>3</sup> Stark, E., & Hester, M. (2019). Coercive Control: Update and Review. *Violence Against Women*, 25(1), 81–104. <https://doi.org/10.1177/1077801218816191>

<sup>4</sup> <https://www.gov.uk/government/publications/domestic-abuse-bill-2020-factsheets/statutory-definition-of-domestic-abuse-factsheet> accessed 22/7/2020



## Women who have lived in Out of Home Care

Young women with a child protection experience are some of the most vulnerable and disadvantaged members of our society. Pre-care and often in-care experiences of domestic violence are unfortunately all too common. MNCCLC recently concluded a 2-year project, LevelUP, that focused on providing access to justice for young people transitioning from OOHC to adult independence. Throughout the duration of this project we found that domestic and family violence were common themes for most young people with an OOHC experience. Young women spoke of incidents that occurred within their biological family, in foster care, within their OOHC residential facility or intimate relationships. Many young women did not consider their experience of violence as domestic violence, despite some of these experiences involving significant physical violence.

95% of our clients in the LevelUP program were recorded as people experiencing domestic or family violence - though in many of these cases it may have been that their legal issues arose from previous violence. However, 40% of clients who engaged with LevelUP disclosed they were experiencing domestic violence with their intimate partner at some point during the project. 20% of clients at the conclusion of the project had children of their own at risk of removal, in the main for concerns in relation to this intimate partner violence. It is worth noting that many of our clients disclosed their parents had also been removed, and we conclude that the “cycle of removal” is pervasive.

### *Case Story: OOHC*

*Katrina\* was removed from her family aged nine due to domestic violence perpetrated by her mother. Katrina was then placed in kinship care with her aunt and uncle. Katrina’s uncle physically and sexually assaulted her and she was removed and placed into foster care. Katrina developed significant behavioural issues as a result of the trauma she experienced throughout her life and was placed in an OOHC residential care facility. Katrina was groomed by one of the staff who worked at the residential care facility who sexually assaulted her. She is affected by physical violence from her partner in her current relationship.*

## Older Women

The experience of older women dealing with domestic and sexual violence is of great concern not only for the violence itself, but for the lack of information and support available for them. Older women are a particularly vulnerable cohort, and MNCCLC would urge government to consider greater investment in services that can assist them with the direct impact of domestic violence, but also with the associated issues such as homelessness, financial disadvantage and social isolation.

### *Case Story: Older women*

*MNCCLC assisted an older woman who was attempting to flee a violent partner. She had sought help as a younger woman in the early years of her relationship, but at that time there were few services in regional areas that could assist. As a result, this woman remained in the relationship until seeking help again almost 30 years later. She made comments to the effect that she had been unaware that there were services available to her because at the time she first sought help, there was nothing. These comments highlight the ongoing need for education about services available to all women, but in particular to older women. Sadly, although she linked with help in order to escape violence, she passed away a short time later.*



*Another elderly woman sought help from our service for a matter which did not initially seem related to violence. She had been the recent victim of a serious home invasion involving physical and sexual assault which, she felt, forced her to move from her small community. Her response to the trauma was to use alcohol, and she was in contact with our service after a drink-driving charge. Not long after our assistance on that charge, she endured the difficulty of personally giving evidence in the criminal prosecution of the offender, only to have the conviction overturned later. She then lost her driver's licence after fleeing the Court in "flight mode" immediately after the appellate hearing. MNCCLC assisted with both the subsequent licence matter and helped lodge a VS application for her. Unfortunately, chronic health conditions led to her death before she was able to receive the VS "recognition" payment.*

*In assisting with the VS application, MNCCLC found evidence that suggested that our client's experience was not treated seriously. We are not sure whether this was because our client was elderly, or because of the way she presented to police. The Police report on file demonstrates that although our client reported the sexual assault to police the very next day while she was still in shock, she was castigated by the Duty Officer for "leaving it to 3pm the following day". The day after reporting the matter, our client presented her own clothing to police for investigation, and then it was a further day before arrangements were made for a SAIK examination and witness statement to be taken by police. Police then identified our client as a vulnerable victim and took out a provisional personal violence order against the alleged offender. Our client told us she found this whole experience deeply upsetting and felt she had not been believed.*

### Women with a Disability

We remain concerned about some key groups of people. As a service that works consistently with people with disabilities, we are aware of the heightened risk of domestic violence for women with disabilities. Indeed, a recent paper on the Status of Women and Girls in Australia <sup>5</sup> notes that women with a disability are 40% more likely than women who do not have a disability to be the victims of domestic violence.

MNCCLC understands that women with a disability may in some circumstances be victims of violence perpetrated by their carers. We also understand that their carers might be the only source of communication and access to services, and that this may result in a dependence that prevents many women with disabilities, who experience violence, from getting assistance.

#### *Case Story: Women with a disability*

*Janet\* was referred to us by a local court support service, after she disclosed concerns about safety and access to finances. She was temporarily resident in a care facility following the breakdown in her relationship, as she required assistance for all forms of personal care. Janet struggled with communication but was able to convey her concerns that her ex-partner was trying to get control of her finances. MNCCLC visited the care facility to give advice, and arranged to come back and get an authority to find out more about Janet's financial situation in more detail. However, Janet was moved by her ex-partner the day MNCCLC was due to visit and was then uncontactable. As Janet needed significant*

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<sup>5</sup> <https://awava.org.au/wp-content/uploads/2019/12/The-Status-of-Women-and-Girls-with-Disability-Asutralia.pdf> (2019) p23

*support to communicate, MNCCLC was unable to follow up without jeopardising her confidentiality or safety. Another agency committed to staying in contact with Janet as best they could.*

MNCCLC considers that the advent of the NDIS might provide some opportunities for women with a disability to consider risks that may result from dependence on a single carer for finance, personal care, transport and psycho-social support. Making an NDIS plan is a collaborative process, and a chance to introduce a range of services (where appropriate) which broadens the network of contacts and may reduce any isolation experienced by a woman with a disability or her carer. MNCCLC would advocate for improved training for NDIS Local Area Coordinators and Support Coordinators, to help them identify, respond to, and refer clients experiencing domestic violence more appropriately. Training might also cover issues like confidential interviewing of clients who are dependent solely on their carers to find opportunities for disclosure if there is an issue of violence in the NDIS participants’ life.

We note, however, women with a disability who are not eligible for NDIS support (such as those who rely on a compensation payment) are unlikely to access the range of services that might otherwise be available to them through the NDIS. MNCCLC would like to propose additional funding for the many disability advocacy services that exist around Australia, who could provide targeted outreach and support to women at risk of violence.

**We strongly advocate for additional legal service support for vulnerable women who need proactive, resource-intensive legal assistance in order to achieve safety and personal security. Older women, women with disabilities, women living in regional communities and young women who have been in Out of Home Care all require additional services that can respond promptly and flexibly to their particular circumstances and needs.**

**l) Any other related matters.**

MNCCLC is one of many Community Legal Centres around Australia whose work is funded by Federal and State governments to meet local legal need. In 2019, we received some additional State funding to commence work in 3 additional local government areas, centred on Coffs Harbour. Whilst we are unable to attribute the specific cause of the significant increase in the percent of clients we are assisting who have experienced violence, we consider it likely that bushfires (which impacted heavily on our region) and COVID 19 have had a strong part to play.

<b>Financial Year</b>	<b>Percent of clients experiencing family violence</b>
2017/18	8.93
2018/19	8.92
2019/20	20.31

Our experience with the LevelUP Project (mentioned above) has shown us the value of flexibility in assisting vulnerable groups of people. In this context, “flexibility” meant the capacity for our project solicitor to actively engage young people leaving Out of Home Care, and to follow them for a period, assisting with the multiple legal issues they learned to identify as the project continued. It meant taking an wholistic approach to legal service delivery, providing lunch when the solicitor met with clients in an informal setting, assisting with non-legal issues in order to build trust for the legal issues that emerged –

but doing it with the assurance of confidentiality and legal professional privilege that only a legal service could offer. We believe that similar approaches would be beneficial for many cohorts of vulnerable people as a model for legal service delivery in other contexts, including for women experiencing domestic violence.

The LevelUP project was funded from a generous grant from the NSW Law & Justice Foundation. This Foundation has supported trials of innovative projects that test ways to meet legal need for several decades. Indeed, the funding that MNCCLC secured was announced at the Foundation's 50<sup>th</sup> Anniversary dinner. Unfortunately, the Foundation's funding was reduced and they can no longer offer grant opportunities to support innovation in legal service provision. This is a great loss to the legal sector in NSW. The experience of the LevelUp project, and of Community Legal Centres funding generally, leads MNCCLC to conclude that more robust funding arrangements that allow for flexible service delivery would give improved opportunities to support women experiencing violence.

## Conclusion

Mid North Coast Community Legal Centre is well placed to provide legal assistance for women experiencing family and domestic violence. We thank the Committee for the chance to provide information stemming from our work.

We have made a number of recommendations above and would welcome an opportunity to discuss our submission in more detail, in particular our findings in relation to women with an OOHC experience, should the Committee find it helpful to do so.