

court **15** north east + legal aid

The case for **Victoria's fifteenth**
Specialist Family Violence Court
+ Victoria Legal Aid Office
in the **North East**

[October 20, 2022]

THE CASE FOR A 15th SPECIALIST FAMILY VIOLENCE COURT AND VICTORIA LEGAL AID IN NORTH EAST VICTORIA

Overview

The major centres of North East (NE) Victoria — Benalla, Wangaratta, Wodonga — consistently record high rates of family violence. Victim survivors and perpetrators in this region of 140,000 people are disadvantaged by a lack of specialist court and legal aid services, when compared to the demand and what is provided in metropolitan areas or other regions.

Service providers and family violence advocates have established the North East Specialist Family Violence Advisory Panel. We collectively call on the State Government to address this postcode injustice for victim survivors and perpetrators of violence, and commit to a Specialist Family Violence Court (SFVC) and a Victoria Legal Aid (VLA) office in this region. This requires a funding commitment of \$29.5m.

In response to Recommendation 60 of the Royal Commission into Family Violence, FVSC have been committed and are rolling out across the 14 Headquarter Courts in Victoria. The Royal Commission also made a direct priority call to address violence in rural, regional and remote communities, and improve access to services for victim survivors and perpetrators of family violence in these communities. Seven years on, SFVC are operating well at the Headquarters where they have been established. We want court #15 to be in NE Victoria.

Supports provided at SFVC are vital for people who have experienced or are experiencing family violence, with a safer, therapeutic, and holistic response for victim survivors and greater accountability for perpetrators not available through the general Magistrates' Court structure.

There is strong resolve across NE municipalities to reduce the incidence of family violence and there are many initiatives that service and sector organisations, government and not-for-profit entities are undertaking to promote change at a community level. Service funding is complex and challenged by funding that is always stretched compared to demand. While the Orange Door has recently been established in Northern Victoria (welcomed collectively by local services and organisations), this is but one piece of the puzzle and there needs to be a co-ordinated and local response to family violence.

The closest Headquarter Court to NE Victoria is Shepparton, where a SFVC has been operational since 2019, but the geographical distance and lack of public transport prevent access to victim survivors and perpetrators from our region. The court is some two hours from Wodonga, or six hours by public transport. Many people do not have the benefit of private transport. Remote access to specialist family violence resources is insufficient and it is inappropriate for victim survivors who have experienced significant trauma to be without placed-based assistance at trusted local services.

Access to justice services and community health services for our region will improve with the introduction of a local SFVC and supporting legal aid office. Victim survivors will benefit from assistance that is more visible and closer to home. This will prove to be crucial in the next few years, particularly with the push for coercive control to be criminalised.

A SFVC will assist in raising awareness about family violence. The enhanced presence of a specialist justice response in the local area will send a strong message to the community that family violence is being addressed seriously.

Family violence rates in NE Victoria are high compared to the state average. We need legal aid services and the support and powers that exist within a SFVC to help keep victim-survivors safe, and perpetrators in view and accountable.

Background to Advisory Panel

The Centre Against Violence (CAV) and Hume Riverina Community Legal Service (HRCLS) joined with Member for Northern Victoria, Tania Maxwell MP to host a roundtable meeting on Tuesday September 22, 2022 to discuss the lack of holistic support to meet demand family violence victim survivors and perpetrators of violence in North East Victoria. Tania Maxwell moved a motion in Parliament on 4 August 2022, calling on the Government *“to invest and commit to a specialist family violence court and Legal Aid office in North East Victoria”*.

Roundtable participants included:

- Centre Against Violence (CAV)
- Hume Riverina Community Legal Service (HRCLS)
- LGAs – Indigo Shire, Rural City of Wangaratta, City of Wodonga
- Gateway Health
- Women’s Centre for Health and Wellbeing (Albury Wodonga) Inc
- Albury Wodonga Health
- Federation of Community Legal Centres
- Upper Murray Family Care
- Victoria Legal Aid, Shepparton
- Victim Survivor/Lived Experience

The Roundtable recognised the strong demand for an increase in family violence services across the community of 140,000 people and committed to advocate for a specialist court and legal aid office to meet this need.

As a result of the Roundtable, the North East Specialist Family Violence Advisory Panel was formed. Panel members include:

- CAV
- HRCLS
- Gateway Health
- Indigo Shire Council
- City of Wodonga
- Women’s Centre for Health and Wellbeing
- Rural City of Wangaratta
- Member for Northern Victoria, Tania Maxwell MP

The Panel met for the first time on 10 October 2022, and members were unanimous in calling for the needs of victim survivors and perpetrators to be recognised and addressed by the State Government at a greater level than has been previously.

The Panel has collated information sourced from various services, organisations and LGAs supportive of the establishment of a SFVC in North East Victoria. Panel members have experience supporting people enduring family violence and/or perpetrators of violence and bring a high level of expertise, knowledge and understanding of the service gaps, identifying these through experience or listening to the concerns of victim survivors and perpetrators.

Rates of Family Violence – consistently higher than the State average

In recent years, the major centres of NE Victoria—Benalla, Wangaratta, Wodonga—have continually recorded higher rates of incidence than the average per 100,000 across Victoria. The most recent Crime Statistics Agency data (YTD 30 June 2022) shows the Victorian average of 1373.5 family incidents per 100,000 people for the period.

Benalla – 2501 incidents per 100,000 (82.1pc above state average)

Wangaratta – 2063 per 100,000 (50.2pc)

Wodonga – 2092 per 100,000 (52.3pc)

Further alarming is that no significant investment outside the Orange Door has been made to address the current lack of services in our region in light of these disturbing statistics.

Victim survivors feel let down by system and alone

“I don’t know what the answer is, but I am so tired of fighting to be heard.”

“Fighting to keep my children safe. Fighting to hold him and other perpetrators accountable. The courts and front line protectors needs to do better.” **Victim survivor**

The Roundtable empowered victim survivors to come forward and share their lived experience with Panel members. The overwhelming theme is one of a system working against them, and next to no support at a traumatic time.

“When I got out of the car and seen his mother standing outside the court I actually physically collapsed, I could not go into the court room I could not walk past her. I just left, now I’m a bad person because I did not turn up for my own IVO application I spend that day in bed crying all over again.” **Victim Survivor**

“If I put in an IVO application I will have to go to court and he will be there I cannot be in the same room as him I just can’t do it.” **Victim Survivor**

*“It’s a small town - everyone will see me there they will know why I’m there because he has told all his family that I’m lying to the police and making sh*t up about him.”* **Victim Survivor**

Frontline services have been listening:

“I had to consent without admission to my perpetrator’s application for an IVO against me to protect my children. He would happily consent to his extended one, but only if I did too. The psychological toll of having a Family Violence IVO with my children on it almost defeated me. I am a victim of violence, not a perpetrator.” **Victim survivor**

SFVC and Legal Aid office benefits

Court matters

A cursory examination of crime statistics from 2016 to 2021 published by the Magistrates’ Court of Victoria reveals alarming trends as measured by the number of victim survivors (Affected Family Member or AFMs). As an aggregate measure, the statewide total for Victoria shows a slight reduction by 2.07% from 57,548 to 56,356. **By contrast, the number of AFMs in the Hume region has increased by almost 10%.**

Broken down further, over the four-year period, the Goulburn area has seen an increase of 4.78% from 2,260 AFMs to 2,368. Meanwhile, the number of AFMs in the Ovens Murray has grown by 18.42%, from 1,357 to 1,607.

The above statistics show only family violence cases brought to the Magistrates’ Court and Victoria Police. **Due to under-reporting arising from victim survivors’ fear of serious harm and low visibility of perpetrator activity, the true prevalence of family violence is likely to be higher.**

Access to justice is a human right

Victorians should have equal access to legal services, regardless of where they live.

The Royal Commission envisaged an integrated family violence response involving services working closely together to support victim survivors and reduce violence. The Early Resolution Service/Pre-Court Engagement model was implemented in 2020 to provide more support and an earlier stage of court proceedings to support earlier risk assessments, increase safety for victim survivors and streamline court processes. The evaluation found this model delivered significant benefits, but resourcing was insufficient to meet demand.

Legal assistance is critical to an integrated family violence response. This includes securing FVIOs and resolving parenting disputes to ensure safety for families, financial legal matters affecting safety and independence, assistance across other areas of law that impact clients and service continuity.

In 2021/22 the Hume Riverina Community Legal Service (HRCLS) (currently the only free legal service in NE Victoria) turned away more people than they could assist. Of the assisted clients, over **82%** indicated having experienced family violence.

Victim survivors and alleged perpetrators who are left to navigate the court system without legal representation increases the risk of poorer or unsafe outcomes, can exacerbate court wait times and contribute to increased conflict and safety risk for victim survivors and their children.

Powers to produce better outcomes

Magistrates in Specialist Family Violence Courts have different powers to those in Magistrates' Courts. These include being able to hear related matters together. Magistrates can also make Orders mandating perpetrators to attend counselling, which provides much greater perpetrator accountability.

Safer environment for victims

"[I had to] be in the court room with the perpetrator, had to walk right beside them, stand by them. I certainly felt intimidated," **Victim Survivor.** ⁱⁱ

One of the benefits of a SFVC includes purpose-built environments to maximise safety and choice. The importance of separate entrances/exits and waiting areas cannot be ignored. victim survivors in our Magistrates' courts do not have these facilities, other than separate waiting areas. These are unsafe and cause victim survivors a great deal of concern in terms of safety and wellbeing. It is not unusual for victim survivors to suffer additional family violence within the court facility. For instance, being insulted or verbally assaulted when walking into court.

According to CAV's data, 80 per cent of the Centre's clients need to access the court system in some way as a result of family violence.

SFVCs also act as a privacy safeguard. This is paramount in regional towns where close-knit communities connect and operate differently to larger centres.

"We're more likely to know one another and that's why I think it's critical. Privacy is really important and that [would] enable victims to access those services and feel protected."
Victim Survivorⁱⁱⁱ

Court staff better equipped

Whilst staff in regional Courts are professional, experienced and helpful, they are often not specially trained or have the same staffing levels available. For instance, SFVCs have specially trained Magistrates, Court Registrars and Family Violence practitioners. There are enhanced learning and development programs for staff. Additionally, there are listing practices across the courts, including list capping to prevent large and unmanageable lists.

Perpetrators - consequences of justice delayed

The criminal justice system plays a crucial role in holding perpetrators of family violence to account for their actions. As legal proceedings are a critical starting point for perpetrator interventions, delays in the handling of family violence matters impact law enforcement and other efforts to protect victim survivors. **Consequently, delayed provision of justice services perpetuates ongoing family violence harms and is an example of systemic abuse in the perpetrator's toolkit.**

- Visibility and accountability of perpetrators are enhanced by SFVCs, as reduced delays in court proceedings contribute to timely and coordinated responses by law enforcement and community services.
- The protracted nature of criminal proceedings in family violence imposes high costs – emotional, social, and economic – on victim survivors. The prospect of court proceedings that could drag on for months, or years, deters victim survivors from reporting abuse and seeking support. This is a key factor in the under-reporting of family violence incidents.
- **Perpetrators who choose to cooperate with the criminal justice system and support services may be discouraged from seeking help to address their abusive behaviours.** Delays in criminal justice responses diminishes their motivation to change, reinforces their feelings of being victimised by the system, and could worsen family violence risk.
- Perpetrators who deliberately disregard or evade the criminal justice system have a strong incentive to do so, feeling confident or emboldened by the slow pace of law enforcement and legal actions. **Absent compelling legal consequences, they continue to commit violence with impunity against their current victims, or move on to new victims.**
- Court ordered men's behaviour change programs help hold perpetrators accountable. Men's behaviour change programs are only a recommendation in the Magistrates' Court and not mandatory.

Investing in a SFVC and Legal Aid Office in the NE

Establishing a SFVC and Legal Aid Office comes at a fiscal cost. The Panel recognises this would require a Government Budget commitment, however consider the cost is not exorbitant compared to the need, or when compared to the investment of other areas that can access a SFVC or have greater family violence resources.

The Parliamentary Budget Office provided a set of costings for Tania Maxwell MP for a proposed SFVC and Legal Aid office. Those costs are attached to this document, but include an estimate across 2022-23 to 2025-26 of \$19.8m to establish a SFVC and increase operating expenses, and \$9.7m to lease a property and employ staff for a legal aid office.

Produced and endorsed by the NE SFVC Advisory Panel



Hume Riverina Community Legal Service



Centre Against Violence



Gateway Health



Women's Centre for Health and Wellbeing (Albury Wodonga) Inc



City of Wodonga



Rural City of Wangaratta

Rural City of Wangaratta



Indigo Shire Council



Tania Maxwell MP
Member for Northern Victoria

ⁱ **Tania MAXWELL MP –**

Legislative Council – Notice of motion – August 4, 2022

I give notice that, on the next day of meeting, I will move —

That this House —

- (1) notes that the incidence of family violence in North East Victoria is higher than the state average, with incidences at Wodonga, Wangaratta and Benalla higher than the average by 36 per cent, 60 per cent and 98 per cent respectively;
- (2) recognises that —
 - (a) the recommendations of the Royal Commission into Family Violence call for priority to be given to rural, regional and remote areas to improve access to services by victims and perpetrators of family violence;
 - (b) despite this recommendation there continues to be no specialist family violence court or Legal Aid office in Wodonga or Wangaratta to support North East Victoria;
- (3) understands that —
 - (a) women experiencing domestic violence are 10 times more vulnerable to experiencing legal problems compared to the general community;
 - (b) the absence of a specialist family violence court and Legal Aid office in North East Victoria limits the resources that can be utilised by victim survivors and perpetrators of family violence;
 - (c) perpetrators of violence often engage with multiple legal services as a means of exercising coercive control to establish a conflict of interest that will deny their victim access to legal assistance; and

calls on the Government to invest and commit to a specialist family violence court and Legal Aid office in North East Victoria.

ⁱⁱ <https://www.abc.net.au/news/2022-09-21/specialist-family-violence-court-push-north-east-victoria/101463198>

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