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Assistant Minister to the Treasurer

By online submission at: <https://consult.treasury.gov.au>

2018-19 Pre-Budget Submission

AWAVA and Harmony Alliance are two of the six National Women's Alliances funded by the Australian Government to promote the views of all Australian women, to ensure their voices are heard in decision-making processes.

The Australian Women Against Violence Alliance (AWAVA) works towards ensuring that all women and children are able to live free from all forms of violence and abuse. AWAVA recognises that gender-based violence is both a consequence and cause of gender inequality and so it must be addressed by promoting women's empowerment.

Harmony Alliance's purpose is to provide a national inclusive and informed voice on the multiplicity of issues impacting on experiences and outcomes of migrant and refugee women, and to enable opportunities for women from migrant and refugee backgrounds to directly engage in driving positive change.

AWAVA and Harmony Alliance call on the Government to facilitate the implementation of actions and commitments made in the Third Action Plan 2016-19 of the *National Plan to Reduce Violence against Women and their Children 2010-2022*.¹

In particular, we recommend that, as a matter of priority, the Government addresses the following actions to ensure migration rules and eligibility requirements for support services do not disempower victims of violence or discourage them from leaving violent relationships (Key Action 3.8 of the Third Action Plan):

- 1) **Extend** access to government-funded services, including crisis payments and emergency housing, to all victims/survivors of domestic, family, sexual and intimate partner violence, irrespective of current visa status, across all states and territories (3.8b).
- 2) **Introduce** visa provisions that allow all victims/survivors temporary protection, irrespective of current visa status, and consider establishing pathways to complementary protection, in light of the possibility that victims/survivors may face ostracism and abuse on return to their home country. This will prevent immigration status being used as a weapon by perpetrators and help to ensure victims/survivors can make escape plans without fear of imminent deportation (3.8a).
- 3) **Improve** accessibility and clarity of information regarding the Family Violence visa provisions provided by the Department of Immigration and Border Protection (DIBP) and other government-funded services, such as 1800RESPECT, to ensure victims/survivors can readily access information and support pathways. This must take into account a range of considerations, including migrant women's English language proficiency, digital

¹ Commonwealth of Australia (Department of Social Services). *Third Action Plan 2016-19 of the National Action Plan to Reduce Violence against Women and their Children 2010-22*, 2016.

literacy, literacy in the first language (in view of translated materials), as well as the limited time window victims/survivors may have to access such information (3.8c).

- 4) **Undertake** a multidisciplinary expert review (combining expertise in migration law and family and domestic violence) of applications made under the Family Violence Provision since its introduction, both refused and granted, to establish what is working and what requires improvement (3.8a,c).
- 5) **Ensure** all relevant government-funded service providers—including health, legal, domestic, family and sexual violence crisis services, and community organisations providing support to victims/survivors—receive adequate funding and have procedures in place for engaging appropriate interpreting services. This funding should be distinct from program budgets to remove any opportunity cost to services facilitating such services (3.6a).
- 6) **Develop** recommended standards for government-funded service providers with regard to engaging and working with interpreters in the context of sexual, family and domestic violence (3.6a).
- 7) **Facilitate** the development and delivery of information and training to health care providers—both clinical and non-clinical and particularly in primary health care delivery—to support primary health care workforce to better recognise signs of sexual, domestic and family violence experienced by women from migrant and refugee backgrounds to respond in culturally appropriate ways (3.6b).
- 8) **Provide** supplementary funding for courts to support the implementation of the Judicial Council of Cultural Diversity’s *National Framework to improve accessibility to Australian courts for Aboriginal and Torres Strait Islander women and migrant and refugee women*. This will particularly assist courts to implement the following recommendations: training in cultural competency, family violence and working with interpreters for all judicial officers and court staff; employment of Indigenous Court Liaison Officers and Cultural Court Liaison Officers; and the development of education sessions, videos and brochures on court proceedings and processes (3.10a).
- 9) **Tackle** structural barriers hindering the participation of perpetrators from culturally and linguistically diverse backgrounds in intervention and support pathways, such as Men’s Behaviour Change programs (6.2).
- 10) **Engage** individuals and leaders from diverse cultural, migrant and refugee backgrounds to assist in the design and delivery of programs combatting domestic and family violence to increase cultural sensitivity (3.9).

In addition, we commend the recommendations of several recent publications that clearly outline the detrimental impact that current immigration and service systems have on victims/survivors in temporary migration situations:

Australian Women Against Violence Alliance (AWAVA). *Submission into the Public Consultation on Visa Simplification: Transforming Australia’s Visa System*. Available online at: <https://www.border.gov.au/Visasupport/Documents/visa-simplification-submissions/australian-women-against-violence-alliance.pdf#search=awava>, 15 September 2017.

Segrave, Marie. *Temporary migration and family violence: An analysis of victimisation, vulnerability and support*. Melbourne: School of Social Sciences, Monash University, 2017.

State of Victoria. "Culturally and linguistically diverse communities". *Royal Commission into Family Violence: Summary and recommendations*. Parl Paper No 132, Vol 5 Chapter 28, 2014-16.

Vaughan, C., Davis, E., Murdolo, A., Chen, J., Murray, L., Quiazon, R., Block, K., & Warr, D.. *Promoting community-led responses to violence against immigrant and refugee women in metropolitan and regional Australia. The ASPIRE Project: Research report*. Sydney: Australia's National Research Organisation for Women's Safety, 2016.

Issue

We commend the Australian Government's zero tolerance approach to domestic, sexual and family violence under all circumstances, and note Australia's international obligations to tackle such human rights violations, in particular under the Convention on the Elimination of all Forms of Discrimination against Women.

As an ethnically, culturally and linguistically diverse nation that welcomes migrants both in permanent and temporary capacities, Australia's efforts to eliminate domestic, sexual and family violence must be strategically tailored to our evolving demographic landscape.

Research is not yet sufficient to ascertain whether incidence of family violence is any more or less prevalent for women from migrant and refugee backgrounds than across the rest of Australian society; however, women from these cohorts are less likely to seek assistance in situations of family violence due to compounding barriers. These include, but are not limited to: the inherent isolation of living in a new country away from established networks; community pressures and expectations; higher levels of financial dependence on perpetrators or community; lack of knowledge of rights and available services; and fear of deportation and removal of children or perpetrator.^{2,3}

Perpetrators use victims'/survivors' temporary migration status as a weapon to deter them from reporting violence and to keep them subservient. In recognition of this, in 2012 the Australian Government introduced visa provisions that allow many on the path to permanent residency to continue their application even after a relationship breakdown, if this breakdown is due to family violence. The key visa categories currently eligible are those who have submitted an application for a partner visa and those who have married on a prospective marriage visa.⁴

However, these visa provisions have not been as effective at ensuring that victims/survivors in temporary migration situations are able to leave violent situations as initially hoped. The limited categories covered by these provisions leave many vulnerable and dependent on their partners. Furthermore, the number of applications received even within the limited eligible categories falls well short of the number of domestic violence situations that could be statistically expected.^{5,6} Finally, the method of assessment used by DIBP in the current provision risks re-traumatising the victims/survivor, putting them once again in a situation of dependence on the perpetrator as they seek to prove that they were part of a 'genuine

²AWAVA, *Submission into the Public Consultation on Visa Simplification*, 4.

³Vaughn et al., *The ASPIRE Project: Research report*, 11.

⁴See <https://www.border.gov.au/about/corporate/information/fact-sheets/38domestic> for further information.

⁵Segrave, *Temporary migration and family violence*, 50.

⁶529 applications were received in 2015-16, compared with the 8700 eligible applicants statistically expected to have experienced intimate partner violence.

relationship'. This is a particularly difficult task for victims/survivors who may have been financially and socially ostracised by the perpetrator.

Background

(1) Migrant women without permanent residency and women who are currently seeking asylum (on bridging visas) are **ineligible for many government services**, including Centrelink, and social housing, and face work and study restrictions according to visa conditions. This leaves many victims/survivors dependent on a family or partner perpetrator financially, and less able to contemplate an escape plan. Interim assistance should be available for all experiencing family violence so that they can find safe haven while they plan their next steps.

(2) The increased vulnerability caused by **temporary migration status** is not unique to the limited categories of visas currently eligible to apply for family violence provisions. Secondary visa holders (family and dependents to the primary visa holder) are reliant on their partners across the board. Those on student visas cannot access many forms of emergency accommodation without discontinuing their studies, violating their visa obligations. Women who have arrived on a prospective marriage visa have no grounds to apply for Family Violence provisions until they are married, meaning a victim/survivor may see no choice but to marry their perpetrator in order to escape. Similarly, those who arrive on temporary visas with the plan to submit a partner visa application, cannot claim family violence until the application is made, and so may see no choice but to remain with the perpetrator until they qualify. A temporary visa for all seeking to flee domestic and family violence situations would allow time and space for victims/survivors to make plans to leave a dangerous situation, without the threat of additional upheaval caused by immediate deportation.

(3) Current information available on the **DIBP website** or through other government channels regarding family violence provisions is technical and difficult to find. Many women from migrant backgrounds accessing this information will have low levels of English proficiency, lower levels of digital literacy and possibly lower levels of overall literacy (including in their first language), a limited understanding of Australian law and visa systems, and limited time away from a perpetrator in which to undertake research. It is critical, therefore, that this information is provided in a plain English resource (as well as equivalent plain language translations) with links to services that can provide further information and assistance. These resources should be available directly from both the home page of the DIBP website and the visa finder page, as well as on the static menus found across all pages.

(4) An analysis of a limited number of refused applications by Segrave uncovered concerning signs that the indicators used by DIBP to determine the existence of a 'genuine relationship' conflict with many of the experiences of victims/survivors of family violence, and that the application process risks causing further trauma.⁷ **A comprehensive expert review** into current application assessment processes would help to ascertain aspects of the application process that could be better tailored for family violence victims/survivors. It is important that systems allow victims/survivors to report family and domestic violence without fear of their claims being presumed to be attempts to strengthen asylum claims.

⁷Segrave, *Temporary migration and family violence*, 52.

(5) Those with limited English require access to **professional and appropriate interpreting services**. While some service providers are eligible for the Government’s Free Interpreting Service, those services that receive substantial government funding must now incorporate interpreting costs into program agreements. This puts the onus on services to make difficult choices regarding the allocations of limited funding, and creates an opportunity cost for facilitating interpreting services. Widening the eligibility for the Free Interpreting Service, or ensuring earmarked funding for appropriate interpreting services, would help to ensure that interpreting services are always available to those who need them.

(6) There is a range of complexities that service providers should consider when **engaging and working with interpreters** in the context of family, domestic or sexual violence support provision. This includes the considerations of the client’s preference for an interpreter of a particular gender, situations in small communities where an interpreter may be known to a victim/survivor or perpetrator, and other complex situations requiring skill and sensitivity. Evidence-based guidance, informed by cross-sector expertise, can be particularly useful in **establishing standards** to support services to follow good practice in engaging and working with interpreters.

(7) **Health care providers**, both clinical and non-clinical, particularly in the primary health care delivery play a key role in identification of and response to family, domestic and/or sexual violence situations. With the right **information and support**, they can improve their assistance towards migrant women victims/survivors by demonstrating cultural understanding and sensitivity, and providing culturally appropriate recommendations of service referral.⁸ This should be further explored in coordination with the relevant primary health care sector stakeholders, including Primary Health Networks.

(8) The Judicial Council on Cultural Diversity developed the ***National Framework to improve accessibility to Australian courts for Aboriginal and Torres Strait Islander women and migrant and refugee women*** based on the recommendations and findings of two consultation reports – *The Path to Justice: Access to Justice for Aboriginal and Torres Strait Islander Women* and *The Path to Justice: Access to Justice for Migrant and Refugee Women*. This framework was authorised by the Council of Chief Justices and aims to improve access to justice for Aboriginal and Torres Strait Islander women and migrant and refugee women, particularly in the context of family violence and family breakdown.

Courts are alienating and intimidating environments for the majority of people. This experience is often exacerbated for Aboriginal and Torres Strait Islander people, who have a history of negative interactions with the justice system, as well as for people from migrant and refugee backgrounds, who often have little familiarity with the court system and may have traumatic backgrounds. Training in cultural competency, family violence and working with interpreters is essential to ensure judicial officers and court staff respond appropriately to the needs of the women appearing before them, and are able to communicate effectively with them. Court Liaison Officers, education sessions, videos and brochures could assist Aboriginal and Torres Strait Islander women and migrant and refugee women to navigate and better understand the court system, reducing their feelings of stress and improving their experience.

⁸ State of Victoria, “Culturally and linguistically diverse communities”, 114.



(9) Perpetrators from culturally and linguistically diverse backgrounds are sometimes unable to participate in **Men's Behaviour Change programs** if their English language skills are not sufficient. Cultural considerations must be taken into account when seeking to help perpetrators uncover the root of violent behaviour and understand its effect on family and community.

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