

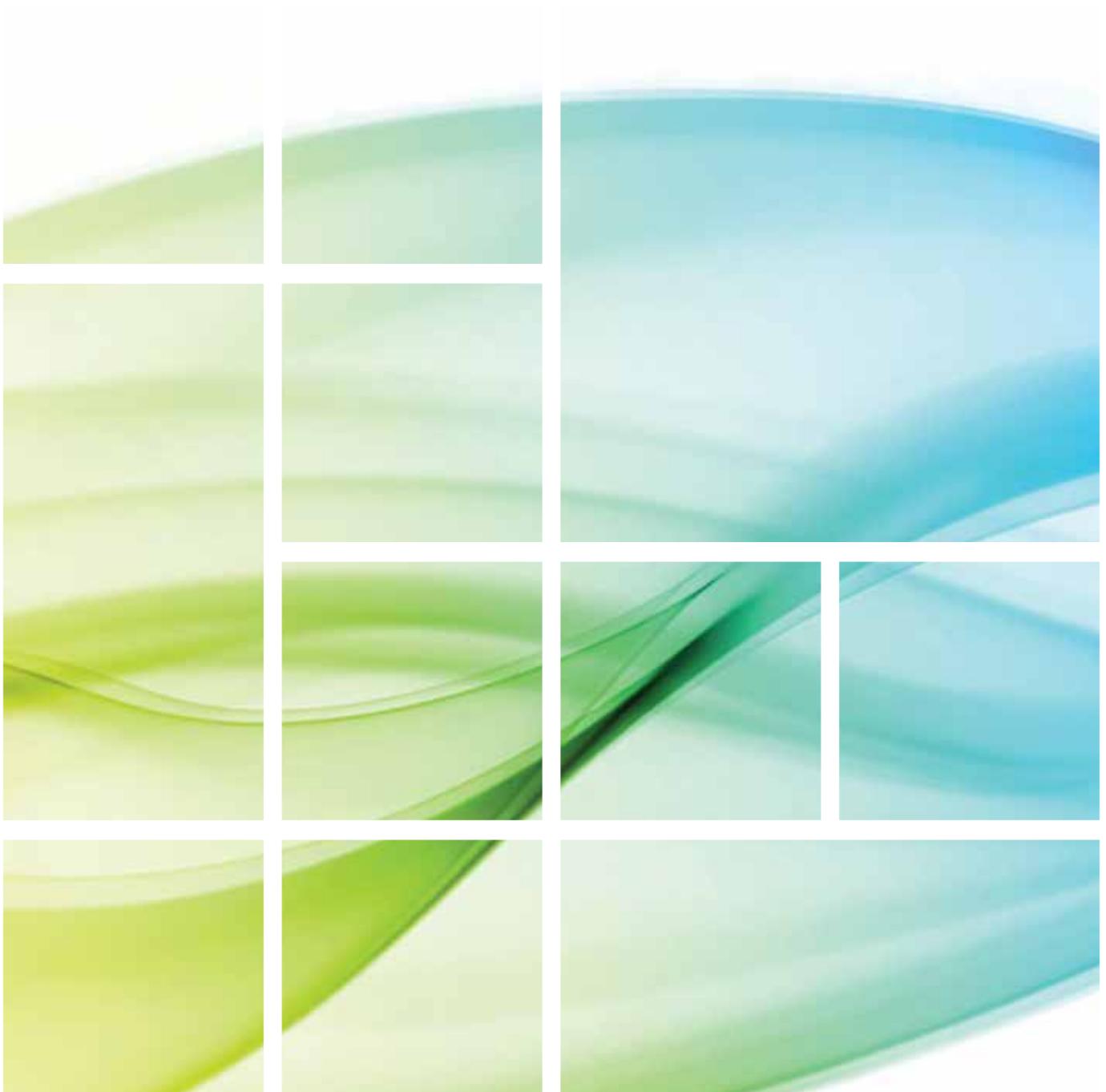


Attorney General
& Justice

The NSW Domestic Violence Justice Strategy

Improving the NSW Criminal Justice System's
Response to Domestic Violence

2013-2017



Acknowledgements

The development of the Domestic Violence Justice Strategy (the Strategy) was led by the Domestic and Family Violence Team, Attorney General's Division, Department of Attorney General and Justice in partnership with key justice and human service agencies. Partner agencies include NSW Police Force, Legal Aid NSW (including the Criminal Law Division and the Women's Domestic Violence Court Advocacy Program), the Department of Family and Community Services (including Women NSW and Community Services), Corrective Services NSW, LawAccess, Victims Services, Court and Tribunal Services, the Office of the Chief Magistrate and the NSW Judicial Commission.

The Department would like to thank members of the Domestic Violence Justice Strategy Senior Executive Committee and all those in partner agencies who provided extensive advice and support. The Strategy reflects their individual and shared commitment to ensuring the criminal justice system in NSW provides fair, effective, coordinated and accessible responses to domestic and family violence.

The Department also acknowledges the work of all those who contributed to the Domestic Violence Intervention Court Model between 2005 and 2012. The Model was a testing ground for many of the approaches in the Domestic Violence Justice Strategy and has proved particularly valuable in demonstrating the importance of collaborative interagency work.

We also give our thanks to those who participated in consultations and focus groups throughout the Strategy's development. Your perspectives were vital in helping partner agencies identify areas for reform and refocus efforts towards the best possible outcomes for victims and defendants.

List of abbreviations and acronyms

ADVO	Apprehended Domestic Violence Order
DAP	Domestic Abuse Program
DVICM	Domestic Violence Intervention Court Model
DVLO	Domestic Violence Liaison Officer
DVPS	Domestic Violence Practitioner Service
RAMP	Risk Assessment and Management Project
'the Charter'	The NSW Charter of Victims Rights
'the Code'	The Code of Practice for the Charter of Victims Rights
'the Framework'	The NSW Domestic and Family Violence Framework
'the Strategy'	The Domestic Violence Justice Strategy
VAL	Victims Access Line
WDVCAS	Women's Domestic Violence Court Advocacy Service

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Foreword

I am very pleased to introduce the Domestic Violence Justice Strategy (the Strategy) for NSW. This Strategy provides NSW justice agencies with a clear framework to improve the criminal justice system's response to domestic violence.

Justice agencies in NSW recognise that domestic violence has devastating consequences for victims, their children and the wider community. This is why the Strategy commits all of the key agencies to action and sets out a vision where victims receive an immediate and proactive response as well as ongoing support, the court process is efficient, fair and accessible, perpetrators are held to account, and there are effective interventions to change their behaviour.

With its operational focus on the justice system, the Strategy will link closely with the NSW Government's Domestic and Family Violence Framework, complementing the Framework's broader strategic focus on prevention, early intervention, governance and implementation of key interagency projects.

The Strategy reflects a partnership approach and has been developed in consultation with justice agencies and victim support services in NSW. In particular I would like to thank the members of the Strategy's Senior Executive Committee who have engaged in extensive consultations to develop this Strategy. The committee has also undertaken to monitor agencies' progress to ensure the agreed strategies and standards are met.

A reduction of domestic violence remains a priority for the NSW Government and we continue to demonstrate our success and commitment to tackling these deplorable crimes. With this Strategy, NSW takes another important step towards a community that is safe and free from domestic violence.



The Hon. Greg Smith SC MP
Attorney General
Minister for Justice

Introduction

The NSW Domestic Violence Justice Strategy (the Strategy) is an operational framework that outlines the approaches and standards justice agencies in NSW will adopt to improve the criminal justice system's response to domestic violence. Its fundamental objectives are to make victims safer, hold perpetrators accountable and prevent domestic violence from reoccurring.

Agencies involved in the Strategy include the Department of Attorney General and Justice (including the Attorney General's Division and Corrective Services), NSW Police Force, Legal Aid NSW (including the Criminal Law Division and the Women's Domestic Violence Court Advocacy Program), the Department of Family and Community Services (including Women NSW and Community Services), and the Judicial Commission of NSW. In addition, the Office of the Chief Magistrate was a key participant.

These agencies provide a range of services to victims and perpetrators within the criminal justice system in NSW. Through the development of the Strategy, the agencies built a shared commitment to ensuring improved services, greater coordination and a more robust and effective justice process in dealing with domestic violence cases. The Strategy explains what victims and perpetrators should experience from the beginning to the end of the criminal justice process and in ongoing management of convicted offenders.

The Strategy clearly defines outcomes for victims and perpetrators. These outcomes are:

1. Victims' safety is secured immediately and the risk of further violence is reduced.
2. Victims have confidence in the justice system and are empowered to participate.
3. Victims have the support they need.
4. The court process for domestic violence matters is efficient, fair and accessible.
5. Abusive behaviour is stopped and perpetrators are held to account.
6. Perpetrators change their behaviour and re-offending is reduced or eliminated.

The Strategy requires agencies to work together to provide an effective and integrated response supported by strong leadership. The Strategy sets well-defined standards of service which agencies will work towards and aspire to achieve over the term of the strategy from 2013 to 2017. It has an explicit focus on ensuring standards are deliverable to all victims and perpetrators in NSW. Progress towards achieving the standards will be closely monitored by the Strategy's Senior Executive Committee.

During its development, partner agencies also identified areas where reform is needed to ensure effective implementation of the Strategy. These areas include the need for consistent responses by police and other agencies, improved evidence collection and prosecution practices, and agencies and services working together centrally and in each region to support victims and their families. They also include victims' access to support services, perpetrators' access to behaviour change programs and other programs to reduce re-offending, and targeted strategies to meet the needs of Aboriginal victims and offenders. The Strategy will address these key areas through research, and legislative and policy reform throughout its term.

NSW Domestic Violence Justice Strategy		
JUSTICE OUTCOME 1 Victims' safety is secured immediately and the risk of further violence is reduced	JUSTICE OUTCOME 2 Victims have confidence in the justice system and are empowered to participate	JUSTICE OUTCOME 3 Victims have the support they need
<p>Strategy 1.1 Proactive investigation of domestic violence incidents</p> <p>NSW Police Force will proactively investigate domestic violence incidents and will take legal action wherever possible.</p>	<p>Strategy 2.1 Compliance with the NSW Charter of Victims Rights</p> <p>Justice agencies will fulfil their obligations to assist victims of domestic violence in line with the NSW Charter of Victims Rights.</p>	<p>Strategy 3.1 Accessible and effective case management services for victims</p> <p>Victims will be offered a case management service that meets their needs.</p>
<p>Strategy 1.2 Consistent collection of evidence</p> <p>Evidence of domestic violence will be collected to support the active prosecution of domestic violence cases.</p>	<p>Strategy 2.2 Court support and advocacy for victims</p> <p>Victims will be contacted by the end of next business day following a referral, and given information about court before first mention.</p> <p>Victims will be given support and advocacy at mentions and assistance to prepare for hearings.</p>	<p>Strategy 3.2 Safety planning with victims</p> <p>Victims and their children will be offered a safety plan.</p>
<p>Strategy 1.3 Immediate referral to victim services</p> <p>All victims will be immediately referred to a local Women's Domestic Violence Court Advocacy Service (WDVCAS), by a police officer that attended the event, before the end of the officer's shift.</p> <p>Where no WDVCAS is available or for male victims, victims will be referred to the Victims Access Line who will coordinate access to local support.</p> <p>Referral arrangements will take into account the availability of local services, and new pathways that are agreed through local implementation of the NSW Domestic and Family Violence Framework.</p>	<p>Victims making private applications for Apprehended Domestic Violence Orders (ADVOs) will be provided with representation at court by a solicitor with specialised training in domestic violence through the Domestic Violence Practitioner Service, where available.</p> <p>Victims will receive follow-up contact about the effectiveness of their ADVOs.</p>	<p>Strategy 3.3 Accessible counselling for victims</p> <p>Victims will have access to counselling through Victims Services Approved Counselling Scheme.</p>
<p>Strategy 1.4 Coordinated interagency risk management</p> <p>Agencies will collaborate to identify victims and their families at high risk of re-victimisation and will work together to manage risks.</p>	<p>Strategy 2.3 Specialist Domestic Violence training for prosecutors</p> <p>Police prosecutors with specialist domestic violence training will prosecute ADVO and charge matters.</p>	<p>Strategy 3.4 Financial assistance for victims</p> <p>Victims of a crime of domestic violence can make a claim for victim's financial assistance.</p>
	<p>Strategy 2.4 Pre-hearing meetings with victims</p> <p>Police prosecutors will meet with victims before a hearing.</p>	
	<p>Strategy 2.5 Victim support at hearings</p> <p>Victims will be supported at hearing by a WDVCAS or case management service.</p>	

JUSTICE OUTCOME 4 The court process for domestic violence matters is efficient, fair and accessible	JUSTICE OUTCOME 5 Abusive behaviour is stopped and perpetrators are held to account	JUSTICE OUTCOME 6 Perpetrators change their behaviour and re-offending is reduced or eliminated
<p>Strategy 4.1 Magistrates' access to training and resources on domestic violence</p> <p>Training and resources on domestic violence will be available to all NSW magistrates.</p>	<p>Strategy 5.1 Proactive investigation of alleged breaches</p> <p>NSW Police Force will proactively investigate all alleged breaches of ADVOs.</p>	<p>Strategy 6.1 Case management for eligible defendants</p> <p>Eligible defendants will be referred to case management and treatment services where available to address their needs.</p>
<p>Strategy 4.2 Domestic violence list days in the Local Court</p> <p>Domestic violence matters including criminal charges and applications for ADVOs will be listed on the next appropriate domestic violence list day, unless the Court is required to list a matter sooner. Domestic violence list days will be implemented in all NSW Local Courts that have full time sittings.</p>	<p>Strategy 5.2 Prompt service of briefs of evidence</p> <p>Police officers will serve the defendant with a mini-brief at the first mention.</p>	<p>Strategy 6.2 Eligible offenders attend the Domestic Abuse Program</p> <p>All suitable high to medium risk offenders will have access to a Domestic Abuse Program (post-sentence).</p>
<p>Strategy 4.3 Timely and fair court processes for domestic violence matters</p> <p>Victims and defendants in domestic violence matters will be dealt with promptly by the Local Court.</p> <p>Criminal matters heard in the Local Court will be dealt with in accordance with Practice Note Crim 1 – Case management of criminal proceedings in the Local Court.</p> <p>Applications for ADVOs will be dealt with in accordance with Practice Note 2 of 2012 – Domestic and Personal Violence Proceedings.</p>	<p>Strategy 5.3 Timely legal services for defendants</p> <p>Police officers will provide all defendants with information on accessing legal information and advice.</p> <p>Defendants will have access to legal information about ADVOs before first mention.</p> <p>Defendants in domestic violence matters who are eligible for services from Legal Aid NSW will receive legal advice in preparation for the second mention.</p>	<p>Strategy 6.3 High quality behaviour change programs</p> <p>Domestic violence behaviour change programs will be evidence based and conform to minimum standards.</p>
<p>Strategy 4.4 Timely pre-sentence reports</p> <p>Corrective services officers will complete pre-sentence reports within agreed timeframes to ensure that domestic violence cases progress promptly through the Local Court.</p>	<p>Strategy 5.4 Monitoring repeat offenders</p> <p>NSW Police Force will monitor repeat offenders to reduce re-offending.</p> <p>Strategy 5.5 Prompt reporting of breaches of court ordered programs to the court</p> <p>Offenders not completing court programs as ordered or breaching the conditions of a court order will be reported to the Local court. The report will be made within agreed timeframes.</p> <p>Offenders not completing programs as ordered or breaching the conditions of an order will have their matters re-listed in court as soon as possible and no later than four weeks.</p>	

1. Domestic violence in the justice system

Understanding domestic violence

‘Domestic violence’, ‘family violence’ and ‘domestic abuse’ are all terms to describe behaviour that occurs in an intimate or family relationship and is violent, threatening, coercive or controlling or causes a victim to live in fear.

The effects of domestic violence on victims and their families are felt in a deeply personal way, but its pervasiveness in the community makes it a wider social problem. The extent of the problem is difficult to determine as victims often remain silent rather than report abuse. It is clear the social costs of domestic violence are considerable, contributing to a significant degree to homelessness, death, disability and ill health as well as bringing substantial costs to the economy.

More than a complex social problem, domestic violence is a crime. Its victims are usually women, although men can also be victims of abuse. Its perpetrators are usually male partners or ex-partners. As well, domestic violence is a serious child protection issue, being one of the most common grounds for reports to Community Services of children at risk of significant harm. At the most fundamental level, domestic violence is a violation of human rights. It denies its victims the right to live with dignity, free from the fear of violence.

The justice system’s response to domestic violence

In NSW the law responds to domestic violence in two ways. It aims to prevent future violence through the use of Apprehended Domestic Violence Orders (ADVOs) and it responds to crimes that have already occurred. Legal processes for determining ADVOs and domestic violence criminal charges most often take place in the Local Court. If the perpetrator is charged with a more serious criminal offence, the case will be dealt with in the District or Supreme Court. Perpetrators who are convicted of a crime will be sentenced either to serve time in prison or to be released into the community, sometimes under certain conditions or supervision.

The NSW criminal justice system enforces laws that stop abusive and violent behaviour and protect victims. It is vital that it provides an efficient, fair and comprehensive response to victims’ and perpetrators’ needs. The justice response to domestic violence involves a range of government agencies and contributors, each with different responsibilities in ensuring the progress of a case through the court system.

Agencies involved in responding to domestic violence in the Local Court include:

- NSW Police Force, including domestic violence liaison officers (DVLOs), general duties officers and police prosecutors
- Legal Aid Commission, including criminal law solicitors and the Women's Domestic Violence Court Advocacy Program
- Local Court staff and staff of criminal justice programs that operate within courts
- Victims Services, responsible for the victims of crime counselling and financial assistance, and the Charter of Victims Rights
- Magistrates, who are independent of government, and responsible for the administration of the law in the Local Court. Magistrates are also supported by the Judicial Commission, which delivers judicial education programs and other initiatives
- Corrective Services NSW, responsible for the management and supervision of convicted offenders in the community and in custody.

In addition, NSW Health and the Department of Family and Community Services may become involved in providing health and social welfare services to both victims and perpetrators. There are also a range of non-government agencies that provide essential services to victims or perpetrators such as victim court support and advocacy services, programs targeting offending behaviour and social welfare services aimed at ensuring victims' safety and well-being.



2. Improving the justice response to domestic violence in NSW

The Domestic Violence Intervention Court Model

In 2005 the Domestic Violence Intervention Court Model (the DVICM) was established in Wagga Wagga and Campbelltown as a testing ground for strategies to improve the justice response to domestic violence within NSW. The objectives of the DVICM were to ensure victims' safety and well-being, hold perpetrators accountable while addressing offending behaviour, and ensure the justice process was efficient.

In 2011 a strategic review of the DVICM was completed. The review considered evaluations of the DVICM and also sought stakeholder's views on what worked well, what challenges remained and the implications for the rest of NSW. The review considered the desirability of specialist domestic violence courts in NSW. It concluded that, because of the size and distribution of the population of NSW, specialist courts would concentrate knowledge and resources in certain locations and would not deliver consistent, improved services across the state. Instead, it recommended the strengths of the DVICM be incorporated into the policies and procedures of justice agencies and victim support services within the mainstream justice system, to ensure accessibility of specialist approaches and high standards of service in all areas of NSW.

In 2012 the NSW Parliament Legislative Council Standing Committee on Social Issues, reporting on domestic violence trends and issues, endorsed this approach and recommended the strategies of the DVICM be incorporated into mainstream justice processes across NSW. The original strategies have been developed into general principles to be applied to the mainstream justice system through implementation of the Domestic Violence Justice Strategy.

Building a robust approach

In addition to the strategies tested through the DVICM, recommendations from a range of reviews are incorporated into the Strategy including:

- the Australian and New South Wales Law Reform Commissions' joint report, Family Violence – A National Legal Response, published in 2010
- the NSW Auditor-General's performance audit of government organisations' responses to domestic and family violence, published in 2011
- the NSW Parliament Legislative Council Standing Committee on Social Issues report on domestic violence trends and issues, published in 2012.

The Strategy is also focused on achieving goals set out in the NSW Government's agenda for change, *NSW 2021: A plan to make NSW number one* including:

- Goal 16. Prevent and reduce the level of crime
- Goal 17. Prevent and reduce the level of re-offending
- Goal 18. Improve community confidence in the justice system.

Many of the approaches adopted by justice agencies under the Strategy have links with projects being undertaken for the NSW Government's Domestic and Family Violence Framework (the Framework). The Framework has a strategic focus on prevention, early intervention, improved services, governance and coordination, and completion of high level strategic projects. The Strategy complements the Framework, setting standards for justice agencies as they respond to domestic violence. The Department of Attorney General and Justice and Women NSW will work together over the life of both plans to ensure alignment and consistency in their implementation.

Additionally, the NSW Charter of Victims Rights articulates the rights of victims of crime in the provision and delivery of services in NSW. The rights outlined in the Charter have informed the development of the Strategy.



3. Principles of the Domestic Violence Justice Strategy

A focus on outcomes

Improving the justice response to domestic violence means ensuring changes have a real and positive impact on people over time. For this reason, the Strategy sets out clear objectives and outcomes.

The primary objectives of the Strategy are to ensure victims and their families are safe and perpetrators are held to account and do not re-offend.

The Strategy focuses on six outcomes the justice system must achieve in order to meet these objectives:

1. Victims' safety is secured immediately and the risk of further violence is reduced.
2. Victims have confidence in the justice system and are empowered to participate.
3. Victims have the support they need.
4. The court process for domestic violence matters is efficient, fair and accessible.
5. Abusive behaviour is stopped and perpetrators are held to account.
6. Perpetrators change their behaviour and re-offending is reduced or eliminated.

These outcomes relate to each stage of a victim and perpetrator's progress through the justice system from the time of first contact with the NSW Police Force, throughout the court process and in interventions after sentencing (where the perpetrator is convicted of an offence). The outcomes for each stage must be met in order for the Strategy's primary objectives to be achieved.

Strong leadership

Implementation of the Strategy is overseen by an interagency committee, bringing together representatives of justice agencies and other key participants in the criminal justice system. The Domestic Violence Justice Strategy Senior Executive Committee is responsible for monitoring and improving agencies' performance across the whole justice system. Members of the Committee have senior leadership and decision-making responsibilities and drive implementation in their own agencies. Through a research and policy development agenda, the Committee also sets direction for long-term reforms.

Standards to which agencies are accountable

The Strategy sets out a range of approaches that agencies will adopt in order to achieve each outcome, including standards of service. The standards of service outline the ways agencies will implement each strategy when carrying out their responsibilities. The Senior Executive Committee reports to the Attorney General and will closely monitor performance in implementing the standards.

Agencies have agreed on performance measures for each standard and there are outcome indicators for the Strategy as a whole. The Strategy also includes standards for timely responses to victims and offenders, such as time standards for court listing for ADVO applications and charges, referrals to support and legal advice, victim contact, legal advice, hearings and pre-sentence reports. The Committee will be able to monitor progress towards achieving the standards and longer-term objectives and identify areas where further action is needed.

Continual improvement

The standards included in the Strategy are framed as actions that will occur. Some of these actions are already part of agencies' response in specific locations. Others have been tested but not yet implemented across NSW. By using the word 'will', partner agencies are expressing a commitment to adopt these strategies throughout the state and to focus on continual improvement.

The Strategy also includes a research and policy development agenda, through which agencies identify areas where reform is needed and take initiative to develop and implement policy and legislative change. The Strategy has a four-year timeframe from 2013 to 2017, with a mid-term review to assess progress on reforms.

An integrated response

In the past, government and non-government agencies involved in domestic violence matters in the justice system have tended to work in isolation of each other. Their focus has been on carrying out their own core responsibilities in response to the demands of each case. The problem with this fragmented approach is that agencies can lose sight of the interactions between different parts of the system and systemic problems go unsolved. Individual agencies may change their own approach but may not recognise the impact of this change on other agencies and processes.

The Strategy ensures agencies can see how they are performing individually and as an integrated whole. It provides awareness of interactions between parts of the system and enables a common approach to problem solving. In this way, a common purpose can be achieved: to ensure justice is administered in a timely, fair and accessible way, to improve victims' safety and reduce re-offending.



The NSW Domestic Violence Justice Strategy

While the Strategy is focused on the criminal justice system's responses to domestic violence, victims and perpetrators need a wide range of government and non-government services. It is important that responses are seamless, well coordinated and not duplicated. For this reason, implementation and ongoing governance of the Strategy will occur at the regional level through governance mechanisms established through the NSW Domestic and Family Violence Framework led by Women NSW.

An accessible system

The Strategy has the explicit purpose of improving the justice system's response to domestic violence throughout NSW. To achieve this purpose, standards must apply to all areas in NSW and to all individuals. This means justice agencies need to work together to meet the needs of victims and perpetrators in rural and remote communities, Aboriginal communities, culturally diverse communities, among people in same sex relationships and people with disabilities.

A phased approach

The initial focus of the Domestic Violence Justice Strategy is in the Local Court. The Local Court deals with 97% of criminal cases, including domestic violence cases.

While higher courts deal with fewer domestic violence cases, their cases involve complex dynamics and allegations of a most serious nature. Clearly, victims and perpetrators involved in such cases should be assured of receiving the same standards of service and outcomes as those in the Local Court. Consideration of the extension of the Strategy to other courts will take place as a second phase following assessment of its impact in the Local Court.

Ongoing consultation

To ensure the impacts of the Strategy are understood and there is continual improvement, agencies will undertake regular consultation with stakeholders. This will include satisfaction surveys and focus groups with service users, and roundtables with justice system professionals in metropolitan, regional and rural areas.

4. Key areas of reform

To implement the Strategy and ensure an effective criminal justice response to domestic and family violence in NSW, justice agencies will develop and implement a research and policy development agenda. As issues are identified through consultation with service users and stakeholders they will be added to the agenda. The following have been identified as initial areas for development and reform.

■ **Improved consistency in NSW Police Force responses to incidents of violence**

Legal action rates (the number of domestic violence events that result in a person being charged with a domestic and family violence offence) vary across NSW. Consistent maintenance of high legal action rates is essential in improving victims' safety and confidence in the justice system and reducing re-offending.

■ **Improved evidence collection**

Maximising the use of video and photographic evidence in domestic violence cases means that compelling evidence is available to the Court, increasing the likelihood of guilty pleas and reducing the requirement for victims to give evidence. While police officers are equipped to collect evidence of injuries and property damage and victim's statements at the scene of a domestic violence incident, legislation limits the use of video evidence in domestic violence cases.

■ **Improved referral and information sharing protocols about clients**

While the DVICM sites in Wagga Wagga and Campbelltown have Privacy Codes of Practice that authorise automatic referrals from police officers to victims' services as well as information sharing about families at risk, the Codes do not apply in other areas of NSW. There is a need to expand the Privacy Codes of Practice or similar provisions to the rest of NSW and to develop interagency guidelines for information exchange.

■ **Coordinated response to the management of risk**

A coordinated justice response will allow agencies to understand how their responses impact on others and ensure collaboration so that victims, children and offenders receive effective support and intervention. Agencies will also have mechanisms in place for referrals, and for working together to support families.

Agencies also need to have a shared understanding of risk and an agreed approach to managing risks to victims and their children over time. This will be achieved through the Risk Assessment and Management Project (RAMP) led by Women NSW, in which justice agencies have a key role.

■ **Greater access to case management services across NSW**

While case management services are resource intensive they improve victims' safety, assist them to recover from violence and help them stay engaged in the criminal justice process. In NSW, some case management services exist but these are not always available, and are often not part of an integrated response with referral protocols and mechanisms for collaboration. Services are scarce in rural communities, despite these areas often having a high rate of domestic violence. There is a need to ensure greater access to case management services across NSW and to improve links between existing services and justice agencies.

■ **Improved regional coordination of domestic violence programs and agencies**

Regional leadership is important to ensure that agencies and services work closely together to improve victims' safety and reduce re-offending. Effective regional coordination means there is leadership to ensure that referral protocols are adopted and followed, that there is a forum to coordinate and collaborate in the provision of services and that both government and non-government agencies are involved in problem-solving meetings.

■ **Greater access to domestic violence behaviour change programs**

The Domestic Abuse Program (DAP) has been demonstrated to be effective in reducing re-offending by domestic violence offenders. The program is available to all domestic violence offenders with a medium to high risk level serving a custodial sentence or community based order under Corrective Services NSW. The number of offenders accessing the program has grown over time, but overall this is a small proportion of those convicted of domestic violence offences. To maximise participation, it is important that magistrates are aware of entry pathways to the program.

There is also a need to intervene earlier in domestic violence cases, before the violence escalates to the point of criminal charges. With the introduction of minimum standards for behaviour change programs, there is an opportunity to consider how courts and other agencies might refer ADVO defendants to community programs that meet the standards. Agencies will also need to evaluate programs thoroughly to ensure their effectiveness in changing participants' behaviour over the long term.

■ **Greater access to other programs that will reduce re-offending**

Domestic violence defendants often have concurrent issues with drug and alcohol misuse and mental illness. Access to programs that link defendants with treatment and help address other issues are important in reducing re-offending.

■ **Targeted strategies to meet the needs of Aboriginal victims and offenders**

Aboriginal women in NSW are nearly six times as likely to be victims of family violence related assault as the general female population¹. To ensure the needs of Aboriginal victims and perpetrators are met, justice agencies will develop strategies to improve Aboriginal victims' access to justice and decrease re-offending by Aboriginal offenders.

1. Aboriginal Affairs NSW, Department of Human Services (2009), Two Ways Together Report on Indicators 2009, Sydney, p 7.

5. Justice Outcomes

JUSTICE OUTCOME 1

Victims' safety is secured immediately and the risk of further violence is reduced

Domestic violence is a crime that generates intense fear and distress and can result in serious injury. There is also a serious risk the abuse will reoccur or escalate. After an incident of violence, victims and their children require immediate action to secure their safety and prevent further incidents.

There are many strategies that can contribute to achieving this outcome. It is important that NSW Police are proactive in their protection of victims and give clear messages to perpetrators of violence and abuse that the behaviour is not acceptable through the use of ADVOs. It is also vital that they collect all available evidence of domestic violence crimes and take legal action wherever possible.

Fast and seamless referral processes to support and advocacy services are also essential to improving people's safety and helping them to deal with the immediate consequences of violence or abuse.

While some people may experience only one incident of violence, it is characteristic of domestic violence that people will suffer ongoing abuse and may come into contact with police and the justice system several times. No matter how many times, it is important that the response is consistent, coordinated and immediate.

For improvement in this area, it is expected there will be an increase in victims' immediate safety and a reduction in re-offending over time. This will be measured by a decrease in victims of repeated domestic violence assault.

Strategy 1.1 Proactive investigation of domestic violence incidents

Standard of service: *NSW Police Force will proactively investigate domestic violence incidents and will take legal action wherever possible.*

Police officers will implement consistent pro-investigation policies to ensure victims' safety. Police officers will lay charges wherever there is sufficient evidence of a crime and apply for an ADVO wherever they hold fears for the safety of a victim of violence. To minimise the potential for the victim to be pressured to withdraw a complaint, police officers will not depend on the victim to determine whether an ADVO or charge should be initiated.

Strategy 1.2 Consistent collection of evidence

Standard of service: *Evidence of domestic violence will be collected to support the active prosecution of domestic violence cases.*

Police officers will consistently collect all available evidence of domestic violence crimes to facilitate the prosecution of domestic violence offences, ensuring that perpetrators are held accountable and victims are kept safe from future violence. This includes evidence of injuries, property damage, telecommunications offences and evidence taken by video or still camera at the scene of a domestic violence event or at a police station.

Strategy 1.3 Immediate referral to victim services

Standard of service: *All victims will be immediately referred to a local Women's Domestic Violence Court Advocacy Service (WDVCAS) by a police officer that attended the event, before the end of the officer's shift. Where no WDVCAS is available or for male victims, victims will be referred to the Victims Access Line within Victims Services, which will provide information and referrals and coordinate access to local support. Referral arrangements will take into account the availability of local services, and new pathways that are agreed through local implementation of the NSW Domestic and Family Violence Framework.*

The purpose of the referral is to ensure that victims have information, support and advocacy to ensure they are able to participate in the legal process, their needs and safety are assessed, and they have access to support as soon as possible. Each local area command will have a referral agreement with WDVCAS or an appropriate local support service.

Strategy 1.4 Coordinated interagency risk management

Standard of service: *Agencies will collaborate to identify victims and their families at high risk of re-victimisation, and will work together to manage risks.*

Victims' and their children's safety will be improved and perpetrators' behaviour will be monitored through interagency risk management meetings, to be implemented through the Risk Assessment and Management Project (RAMP). Relevant agencies will meet and collectively manage risks to victims and children.

JUSTICE OUTCOME 2

Victims have confidence in the justice system and are empowered to participate

In the aftermath of an incident, victims require support and information to help them understand and participate in the justice system.

It is important that people have information about court before they attend. The justice system can be intimidating and confusing and, for some, is too daunting to contemplate. Some people may feel legal action is too serious a step to take for the abuse they have experienced even when the abuse is severe. They may feel there is nothing that can be done to change their circumstances or that they may be unsafe at court. Others are unfamiliar with the legal process and language used in court. Information about going to court and assistance through the entire process can make it much easier to participate.

Where a matter proceeds to a hearing it is important that victims have a voice in the process. Victims need to be aware of what happens during a hearing and feel confident that prosecutors are familiar with their story before a hearing begins.

All these strategies contribute to improving victims' confidence in the justice system, and improving the likelihood they will report any subsequent incidents of violence.

For improvement in this area, it is expected there will be an increase in victims' confidence in the justice system and satisfaction with their court experiences. This will be measured by an increase in the number of victims who report satisfaction with the court process, an increase in victims who would report again, and a reduction in the proportion of matters withdrawn and dismissed.

Strategy 2.1 Compliance with the NSW Charter of Victims Rights

Standard of service: *Justice agencies will fulfil their obligations to assist victims of domestic violence in line with the NSW Charter of Victims Rights.*

The NSW Charter of Victims Rights (the Charter) aims to protect and promote the rights of victims of crime in NSW². The Charter states how a victim of crime should be treated and assisted by government services, non-government agencies and private contractors funded by the State Government (excluding medical practitioners and private lawyers) who provide services to victims of crime. The Charter is established by the *Victims Rights Act 1996*. The Act requires Victims Services to promote and oversee implementation of the Charter.

The Code of Practice for the Charter of Victims Rights (the Code) describes the minimum levels of service that must be provided to victims of crime by service providers identified in the Act. The Code also details complaint procedures, if a victim of crime believes a Charter right has been breached.

To ensure victims participate and have confidence in the justice system, justice agencies will apply the Charter and the Code in their work with victims of domestic violence.

2. http://www.lawlink.nsw.gov.au/lawlink/victimsservices/ll_vs.nsf/pages/VS_victimsrigh charter

Strategy 2.2 Court support and advocacy for victims

Standards of service: *Victims will:*

- *be contacted by the end of next business day following a referral*
- *be given information about court before first mention*
- *be given support and advocacy at mentions*
- *be prepared before a hearing*
- *be provided with representation at court by a solicitor with specialised training in domestic violence (for those making private ADVO applications) through the Domestic Violence Practitioner Service (DVPS) where available*
- *receive follow-up contact about the effectiveness of their ADVOs.*

Court support and advocacy services will ensure that victims receive the necessary information and advocacy before, during and after court to maximise their engagement and confidence in the court process.

This support will include assessing clients' legal and social welfare needs, providing information about the legal process and where to access the safe room at court, ensuring the conditions of the client's ADVO are appropriate and that the client understands the orders that may be included on an interim or final ADVO, risk assessment and safety planning, and facilitating access to appropriate services through referrals to counselling, compensation, legal services and case management services as dictated by the client's needs.

For male victims, or where there is no WDVCS available, a person will be referred to the Victims Access Line (VAL) at Victims Services. The VAL will facilitate support and information before court and provide support to access counselling, financial assistance and referral to local services.

Court staff will offer victims making private applications for ADVOs a referral to the WDVCS or VAL.

Strategy 2.3 Specialist domestic violence training for prosecutors

Standard of service: *Police prosecutors with specialist domestic violence training will prosecute ADVO and charge matters.*

Specialist domestic violence training for prosecutors impacts on a wide array of justice outcomes including victim safety, communicating to the perpetrator the unacceptability of violence and enhancing victim satisfaction with the court process. Where a domestic violence matter goes to hearing, a police prosecutor with specialist training prosecutes the case to increase successful prosecution of domestic violence matters.

Strategy 2.4 Pre-hearing meetings with victims

Standard of service: *Police prosecutors will meet with victims before a hearing.*

Where a domestic violence charge or police initiated ADVO matter is set down for defended hearing in the Local Court, the police prosecutor will meet briefly with the victim to help prepare them for giving evidence. This may include a pre-hearing meeting with the prosecutor or a pre-hearing clinic. Contact between victims and prosecutors will be facilitated by DVLOs in liaison with WDV CAS or other support services, and will focus on victims whose participation in the court process may be at risk. The officer in charge of the case also has an important role in preparing victims to give evidence and will liaise with them throughout the process.

Strategy 2.5 Victim support at hearings

Standard of service: *Victims will be supported at hearing by a WDV CAS or case management service.*

As victims require support throughout the court process, where a matter proceeds to hearing, the victim will have access to support at court through the WDV CAS, or through a referral to a case management service that has been trained to provide support at court.



JUSTICE OUTCOME 3

Victims have the support they need

In addition to support and advocacy at court, victims require other forms of support to help them stay safe and recover from violence. This can include access to emergency accommodation and housing, financial assistance, referrals to counselling and mental health services, as well as safety planning to manage the ongoing risk of violence and compensation for injuries resulting from domestic violence.

Victims from diverse and vulnerable communities may have unique concerns that will need to be addressed if they are to receive appropriate support. It is vital that agencies have effective and coordinated referral processes to allow them to work together in recognising and addressing victims' diverse needs.

For improvement in this area it is expected that there will be an increase in the proportion of victims receiving case management support that meets their identified needs, and in clients who, at case closure, report satisfaction with the service.

Strategy 3.1 Accessible and effective case management services for victims

Standard of service: *Victims will be offered a case management service that meets their needs.*

Where victims have needs arising from financial, housing, security and legal issues they will receive a case management service to improve their safety, help them recover from violence, and remain safe over time. This could include information about the legal process, referrals to counselling, compensation and legal services, referrals to mental health services and other casework assistance as dictated by the clients needs.

Victims will be able to have access to face-to-face case management, or where this is not available they will be referred to Victims Access Line to receive assistance, information and support.

All services will have policies to ensure specialist staff are employed or that staff are trained to respond to culturally diverse and/or vulnerable victims.

Strategy 3.2 Safety planning with victims

Standard of service: *Victims and their children will be offered a safety plan.*

Safety planning is a key tool used by victim support service workers to keep victims and their children safe by helping them to plan in advance for the possibility of future violence and abuse. It also helps victims to think about how they can increase their safety either within the relationship, or if they decide to leave. Victim support services will have discussions with victims regarding ways to get help in an emergency. The safety plan will consider both the victim's and their children's safety. The plans will be developed by workers trained in risk assessment and safety planning.

Strategy 3.3 Accessible counselling for victims

Standard of service: *Victims will have access to counselling through Victims Services Approved Counselling Scheme.*

The Approved Counselling Scheme operated by Victims Services is available to victims of violent crime that has occurred in NSW. Victims can apply on-line or by contacting the Victims Access Line. If eligible, they can receive up to 22 hours of free counselling through a qualified Approved Counsellor.

Strategy 3.4 Financial assistance for victims

Standard of service: *Victims of a crime of domestic violence can make a claim for victims' financial assistance.*

Agencies will provide victims with information on their right to seek financial assistance and refer them to the Victims Access Line within Victims Services for information about eligibility.

JUSTICE OUTCOME 4

The court process for domestic violence matters is efficient, fair and accessible

It is a fundamental principle of the justice system that the administration of justice is fair. A fair system provides clear and transparent information and support to both victims and defendants and ensures that cases are managed in an efficient and timely way.

It is also important that the legal process for domestic violence is managed in a way that ensures a range of services and agencies provide specialist services at court, through domestic violence list days.

Crucial to the fair administration of justice is magistrates' access to adequate resources, including training, which allows them to respond appropriately to the unique concerns arising in domestic violence cases. This will ensure victims have confidence in the justice system and are encouraged to report violence and abuse if it reoccurs.

Improvement in this area will be demonstrated in a decrease in the time taken to finalise domestic violence charges and an increase in final orders being granted at the first mention of an ADVO.

Strategy 4.1 Magistrates' access to training and resources on domestic violence

Standard of service: *Training and resources on domestic violence will be available to all NSW magistrates.*

Magistrates and judges will have access to training and resources on domestic violence that meet their information needs. This includes a DVD resource to inform judicial officers and other justice professionals about good practice in different roles within the legal process for domestic violence matters. The Judicial Commission will respond to judicial officers' requests for training on domestic violence issues and provide other good practice resources where required.

Strategy 4.2 Domestic violence list days in the Local Court

Standard of service: *Domestic violence matters including criminal charges and applications for ADVOs will be listed on the next appropriate domestic violence list day, unless the Court is required to list a matter sooner. Domestic violence list days will be implemented in all NSW Local Courts that have full time sittings.*

Domestic violence list days help to standardise procedure and ensure there is better coordination and communication between services at court. Domestic violence list days will be implemented in all NSW Local Courts that have full-time sittings. In smaller courts that have less frequent sittings, domestic violence cases are still listed together. Both approaches will facilitate victims receiving support from specialist domestic violence services and prosecutors.

Strategy 4.3 Timely and fair court processes for domestic violence matters

Standard of service: *Victims and defendants in domestic violence matters will be dealt with promptly by the Local Court. Criminal matters heard in the Local Court will be dealt with in accordance with Practice Note Crim 1 – Case management of criminal proceedings in the Local Court. Applications for ADVOs will be dealt with in accordance with Practice Note 2 of 2012 – Domestic and Personal Violence Proceedings.*

The practice notes improve court efficiency by ensuring applications are dealt with efficiently, and in criminal matters that pleas of guilty are entered at the first available opportunity and otherwise that a hearing occurs as promptly as possible. Practice Note Crim 1 includes a time standard requiring matters be listed for a hearing within 3 months of the charges being laid.

Strategy 4.4 Timely pre-sentence reports

Standard of service: *Corrective services officers will complete pre-sentence reports within agreed timeframes to ensure that domestic violence cases progress promptly through the Local Court.*

A pre-sentence report will include a comprehensive assessment of factors including information about the offender and their offence and recommendations regarding their eligibility for programs. Timeframes will vary depending on the report being provided for either the Local or District Court but an agreement will be in place regarding an expected period of time.

JUSTICE OUTCOME 5

Abusive behaviour is stopped and perpetrators are held to account

In NSW, laws exist to hold perpetrators accountable for their violent behaviour and protect victims from future harm. These laws send a clear message to the community that domestic violence is unacceptable.

It is important that these laws are properly and efficiently enforced, not only to guarantee victims' safety but also to make sure public condemnation of this behaviour remains clear and strong.

In addition to strategies aimed at facilitating the prosecution of criminal offences through the collection of forensic evidence and pro-prosecution policies outlined under Outcome 1, it is important that defendants have access to timely legal services. Access to legal information and advice will improve their understanding of conditions of court orders and their obligations to comply, with the aim of preventing them from committing further acts of violence or abuse. It is also important that briefs of evidence are served promptly, so that defendants are aware of the evidence against them.

Perpetrators' compliance with ADVOs and court orders needs to be monitored, especially in situations where there is a high risk of re-offending. Breaches of ADVOs need to be proactively investigated and legal action taken wherever there is sufficient evidence. Similarly, breaches of conditions of bonds or other court orders need to be reported promptly to the court to make sure perpetrators are held accountable for the breach and reduce the risk of further breaches.

To demonstrate improvement in this area it is expected there will be an increase in legal actions for domestic violence assault, an increase in guilty pleas at first mention and an increase in successful prosecutions.

Strategy 5.1 Proactive investigation of alleged breaches

Standard of service: *NSW Police Force will proactively investigate all alleged breaches of ADVOs.*

To ensure victims remain safe and have confidence in the justice system, when a breach of an ADVO is alleged, police officers will investigate and apply the Director of Public Prosecutions' prosecuting guidelines. Police officers will take legal action wherever there is sufficient evidence to support prosecution. Where police do not take action after an allegation of breach of an ADVO has been made the police will record the reasons for this decision. In cases where no action is taken, the case will be reviewed by a supervisor.

Strategy 5.2 Prompt service of briefs of evidence

Standard of service: *Police officers will serve the defendant with a mini-brief at the first mention.*

Where a defendant is charged with a domestic violence criminal offence, the prosecution will serve on the defendant, at the first mention date, a mini-brief of evidence. The mini-brief contains a victim's statement, fact sheet and photographs if available. Ensuring that evidence is provided as early as possible promotes early guilty pleas, reduces the stress on victims attending court, and ensures matters are not unnecessarily listed for hearing.

Strategy 5.3 Timely legal services for defendants

Standards of service:

- *Police officers will provide all defendants with information on accessing legal information and advice. This will be included on the ADVO notice.*
- *Defendants will have access to legal information about ADVO before first mention.*
- *Defendants in domestic violence matters who are eligible for services from Legal Aid NSW will receive legal advice in preparation for the second mention.*

To promote an efficient court process and ensure perpetrators are held to account, at the time they are charged or served with an ADVO, defendants will be advised on where and when to access legal services. This will include defendants being provided with an addendum to an ADVO or charge sheet by the officer in charge. The addendum will advise them to contact LawAccess before the first mention for information. Defendants contacting LawAccess will be provided with information that meets their needs such as compliance with ADVOs, conditions of bail and referrals for legal advice. In some cases the defendant will be given legal advice by a LawAccess solicitor.

If they are eligible, Legal Aid NSW will provide defendants with advice to enable them to enter a plea at or before the second mention. This may include advice provided by Legal Aid solicitors, private solicitors funded by Legal Aid NSW or through pilot domestic violence clinics where advice is provided to defendants on ADVO matters.

Strategy 5.4 Monitoring repeat offenders

Standard of service: *NSW Police Force will monitor repeat offenders to reduce re-offending.*

To ensure repeat offenders comply with ADVOs and conditions of bail and bonds, NSW Police Force will implement strategies to monitor their compliance. This could include developing and maintaining a list of repeat domestic violence offenders and conducting systematic reviews of defendants' compliance with conditions of ADVOs, bail and bonds.

Strategy 5.5 Prompt reporting of breaches of court ordered programs to the court

Standards of service:

- *Offenders not completing court programs as ordered or breaching the conditions of a court order will be reported to the court. The report will be made within agreed timeframes.*
- *Offenders not completing programs as ordered or breaching the conditions of an order will have their matters re-listed in court as soon as possible and no later than four weeks.*

To ensure offenders are promptly held to account, a breach of a court order will be reported by a corrective services officer to the court within agreed timeframes. The Local Court will list the matter no later than four weeks following the report from Corrective Services NSW.



JUSTICE OUTCOME 6

Perpetrators change their behaviour and re-offending is reduced or eliminated

It is not enough for the justice system to focus solely on the safety and support needs of victims. While the protection of victims and their families must be the paramount concern, domestic violence will not be eliminated unless perpetrators change their abusive behaviour. Strategies aimed at providing services to perpetrators, either as part of, or before, a sentence imposed by the Court, give an opportunity to intervene and reduce the risk of re-offending.

For improvement in this area it is expected there will be an increase in the proportion of domestic violence defendants completing treatment and intervention programs and a demonstrated decrease in breaches of ADVOs.

Strategy 6.1 Case management for eligible defendants

Standard of service: *Eligible defendants will be referred to case management and treatment services where available to address their needs.*

The purpose of court based intervention and diversionary programs is to identify and address the underlying needs of defendants that relate either directly or indirectly to their offending behaviour.

This may be through the provision of treatment and services or by way of facilitating the defendant's entry into available community based services, treatment and programs.

Strategy 6.2 Eligible offenders attend the Domestic Abuse Program

Standard of service: *All suitable high to medium risk offenders will have access to a Domestic Abuse Program (post-sentence).*

The NSW Domestic Abuse Program (DAP) is a 20-session rehabilitative group intervention program delivered by Corrective Services NSW for offenders serving community-based orders or custodial sentences for domestic and family violence related offences. Studies evaluating the effectiveness of the program have shown significant reductions in re-offending rates in the DAP treatment group.

To ensure offenders change their behaviour and reduce their re-offending, all offenders receiving a custodial sentence or community based order under Corrective Services NSW are assessed for their eligibility and suitability to attend a Domestic Abuse Program. All suitable high to medium risk offenders will have access to the program. Offenders not completing a program as ordered or breaching the conditions of an order are referred back to the Court. Offenders found not eligible for the Domestic Abuse Program will be referred to services in the community, for example one-on-one or group counselling.

Strategy 6.3 High quality behaviour change programs

Standard of service: *Domestic violence behaviour change programs will be evidence based and conform to minimum standards.*

The NSW Government has introduced minimum standards for men's domestic and family violence behaviour change group programs. The objective of the minimum standards is to ensure that all programs in NSW reflect good practice and are safe and effective in changing the behaviour of perpetrators of domestic violence.

The standards require government and non-government agencies to prioritise the safety of victims and children, work in partnership with victim support services and other relevant agencies, and ensure programs that have a sound theoretical base and are responsive to participants' diverse cultural needs. The standards also require facilitators to meet professional supervision and training requirements.

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