



Engender Equality

Submission to the Department of Justice Office of Strategic Legislation and Policy
regarding the *Family Violence Reforms Bill 2018*

About Engender Equality

Established in 1989, Engender Equality is the leading non-government agency in Tasmania supporting people who have experienced family violence. Engender Equality is a dynamic, evolving professional organisation, founding our philosophies, practice and resources on current research. Engender Equality has a high level of skill, knowledge and experience working with women, children and families impacted by family violence and abuse.

Our core work is in providing therapeutic counselling to people who are currently or have previously experienced family violence, abuse and other violations. We also have an active role in Tasmania in advocating for systemic change to gender inequality and violence against women and their children.

Engender Equality believes that people have the right:

- To live free from violence and in safety
- To equality and respect
- To recognise their potential
- To make informed choices regarding their lives

Our response to the *Family Violence Reforms Bill 2018*

Engender Equality commends the Tasmanian Government's commitment to reducing levels of family violence. It is promising to see the issue of family violence and abuse as a priority and that action is being taken to strengthen family violence laws. As a specialist service, we support people who have experienced family violence and are intimately aware of the adverse effects and long-term suffering that can result from family violence. We are deeply concerned with prevention of further family violence for both individuals and our community as a whole.

Our accumulated experience informs our understanding of the complex and interactive factors that contribute to Tasmania's present levels of family violence. These determinants include gender roles and relations, social norms supporting violence and access to resources (VicHealth, 2007). We recognise that family violence cannot be prevented in our community

without clear messages, education and opportunities that challenge the underlying drivers of family violence.

In support of the *Family Violence Reforms Bill 2018*, Engender Equality asserts that the law should be used as a guide for behaviour and a tool for changing community attitudes towards gender inequality and family violence. The law can, through both direct and indirect enforcement mechanisms, govern and guide the behaviour of individuals in our community (Forji, 2010). We firmly believe that family violence and abuse is behaviour that should not be accepted in Tasmania. Therefore, the law must be used to its full influential capacity to challenge community attitudes regarding gender equality and family violence.

Supported Amendments

- **125A of the *Criminal Code Act 1924 (Tas)* by inserting a new offence of persistent family violence**

Engender Equality is aware that family violence often occurs as a pattern of behaviour and is rarely a once-off event. Therefore, Engender Equality supports this new charge because it is reflective of how family violence often unfolds. A persistent family violence charge will acknowledge and validate that family violence can occur over a long period of time, which can make it difficult for victims to recall specific details and dates of individual acts of violence. Engender Equality considers the introduction of persistent family violence as a potentially useful step in recognising the nature of family violence and the adverse effects on victims. This offence may also be useful in identifying a perpetrator likely to cause harm to other victims apart from the current partner/ex-partner and children they are harming (Holtzworth-Munroe and Stuart, 1994). This criminal justice response may be used as part of an attempt to define the style of chargeable and coercive family violence behaviours in order to engender appropriate consequences.

Alongside the introduction of the persistent family violence charge, Engender Equality acknowledges that decisions regarding sentencing of persistent family violence must seek to maximise the human rights of both victims and perpetrators of family violence. Engender Equality acknowledges the need to provide evidence-based treatment and intervention programs for perpetrators of persistent family violence.

Section s125A of the *Criminal Code*

In line with our knowledge of the difficulties faced by child sexual abuse survivors, Engender Equality supports the proposed amendments to 125A of the *Criminal Code* to clarify that members of a jury do not need to be satisfied that the same three unlawful sexual acts were committed on the same three occasions. This is in line with the recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse.

We also support the clarification of section 125A of the *Criminal Code Act 1924* (Tas) that judicial officers are not required to ask the jury of the nature or character of the sexual relationship maintained in sentencing an offender for the crime of maintaining a sexual relationship with a young person.

- the *Evidence (Children and Special Witnesses) Act 2001* (Tas) to be clear that a self-represented defendant is not permitted to cross-examine a witness who is the alleged victim of family violence under parts 3 or 4 of the *Family Violence Act 2004* or bail applications

Engender Equality supports this change of practice and has long been an advocate that victims of family violence should not have to give evidence in the presence of perpetrators, or any of their friends or family members. The experiences of Engender Equality clients with the Tasmanian legal system mirrors broader Australian research describing victim's experiences of invalidation, fear, anxiety, and re-traumatisation in legal processes related to family violence (Roberts, Chamberlain & Delfabbro, 2015).

Further Recommendations

In the ongoing development of Family Violence Reform that best serves the Tasmanian community, Engender Equality offers these further recommendations:

An outcome of an independent review of Tasmania's Safe at Home initiative, a specialist Family Violence Court was recommended to improve protection for witnesses and children, provide better quality information to courts, ensure privacy, and make better use of specialist family violence prosecutors (Successworks, 2009). The effectiveness of Family Violence Courts has been demonstrated extensively in other Australian states, as well as internationally. They are particularly effective when procedures, support services, offender

programs, specialised and arrangements for survivor safety are incorporated. We believe a specialised Court could offer women greater sensitivity to their needs, better consistency in the handling of family violence issues, and better outcomes for both survivors and offenders. We would like to see the idea explored in greater depth by the Tasmanian Government and community more broadly.

Recommendation: Explore the development of a specialised Family Violence Court for Tasmania.

Engender Equality believes that what constitutes a family relationship needs to extend to include the tactics and dynamics of family violence towards any family member and by any family member, whether living together or not. This includes carers, guardians and relationships in shared accommodation and group homes. The rationale for this is that the dynamics of family violence affect the entire family, as depicted by the Victorian and Queensland definition of family relationship, and can be perpetrated by any member of the family to any other member, including informal care relationship. Extending the definition to be in line with these states gives credibility to the wide range of impacts family violence has and who else may be vulnerable to them within a family circle. It allows for a greater recognition of the use of coercively controlling tactics to gain domination over vulnerable members of the wider family structure. The addition of dating relationships as opposed to spousal relationship is also a critical point, as dating is where the pattern of coercion will often start.

It must be noted that broadening the definition of family violence will immediately increase the demand on services and thus the organisations who form the support response will need to be expanded to meet the demand.

Recommendation: That the definition of family relationship be expanded to reflect the diversity of family, domestic and intimate relationships that exist in our communities. All relationships of an intimate, familial or domestic nature that allows for the inclusion of;

- Same-sex relationships,
- relationships between residents in group homes
- dating relationships and other relationships that are built on trust and commitment but may not include intimacy,

- family relationships beyond spouses in order to include non-nuclear families and families from diverse backgrounds that may co-habit (considering CALD and Aboriginal family structures)

References

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