



# Specialist Domestic Violence Courts (Or Court Lists days) in New South Wales

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## Introduction

Redfern Legal Centre (RLC) supports the recent recommendation by the NSW Domestic Violence Death Review Team<sup>1</sup> 'that the Attorney General, in consultation with relevant stakeholders, consider how the approaches reflected in the Domestic Violence Justice Strategy, such as the application of specialist court practice in all local courts, can be further advanced'.

RLC recommends that the NSW Attorney General consider the introduction of domestic violence specialist courts (or specialist court list days), similar to Queensland's Southport Domestic and Family Violence Specialist Court model, as a feasible and cost effective way to ensure better outcomes for victims through specialist training and collaborative practices between the court.

Strong collaborative court-based practices would strengthen the work of Safer Pathway<sup>2</sup> and would address a number of issues that arise for the clients of RLC's Sydney Women's Domestic Violence Court Advocacy Service, as well as some of the problems identified in the most Domestic Violence Death Review Team Report 2015-2017.

A domestic violence specialist court (or specialist court list day) in all courts would ensure that on the same day an ADVO is listed for mention or defended hearing, parties are provided with specialist magistrates and prosecutors and specially trained court staff along with the already existing support services.<sup>3</sup>

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<sup>1</sup> NSW Domestic Violence Death Review Team Report 2015-2017, Recommendation 7.

<sup>2</sup> Safer Pathway is an integrated approach to domestic violence in NSW, providing victims with safety assessment, referrals and service coordination. Safety Action Meetings (SAMs) are being rolled out across NSW to address the needs of victims assessed as 'at serious threat' through information sharing and the development of Safety Action Plans.

<sup>3</sup> The Women's Domestic Violence Court Advocacy Service operates at 117 local courts in NSW.



## The Issue

The NSW Domestic Violence Death Review Team Report 2015-2017 (the Report) highlights a number of issues relating to the justice response to domestic violence, including the issue of dealing with intractable offenders,<sup>4</sup> the need for judicial officers to consider factors relevant to the duration of an ADVO,<sup>5</sup> and the suggestion that court responses to domestic violence could be improved by harnessing the expertise of judicial leaders.<sup>6</sup> A number of cases cited in the Report demonstrate the difficulties victims of domestic violence face, particularly Aboriginal women victims, when accessing justice. These same difficulties are reflected in the casework of RLC's Sydney Women's Domestic Violence Court Advocacy Service, particularly in cases set down for a defended hearing.

## Feasible and Cost Effective

Most local courts in NSW already have a dedicated domestic violence court list, and most of the other elements of a specialist court list already exist at these courts, including magistrates, prosecutors, and support services for female victims attending court.<sup>7</sup> A Local Court Practice Note already applies to all domestic violence proceedings in NSW with the object of promoting consistency and efficiency in AVO proceedings.<sup>8</sup>

Therefore, specialisation would only require court rooms to be set aside for domestic violence related matters (including criminal charges and breaches), specialist training for all personnel involved (including magistrates, prosecutors and court staff), the provision of a safe waiting room or area at court, and time set aside for stakeholders to engage in collaborative practices relevant to the running of the court.

## Support for Specialisation

As well as the recommendations contained in the Domestic Violence Death Review Report, the 2010 Australian Law Reform Commission (ALRC) Report *Family Violence – A National Legal Response*<sup>9</sup> recommended state and territory governments, in consultation with relevant stakeholders, should establish or further develop specialised

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<sup>4</sup> Recommendation 6

<sup>5</sup> Recommendation 3

<sup>6</sup> Recommendation 7

<sup>7</sup> Court support already provided by the Women's Domestic Violence Court Advocacy Service at 117 courts in NSW

<sup>8</sup> Local Court Practice Note 2 of 2012

<sup>9</sup> Australian Law Reform Commission, *A National Legal Response: Report 114* (2010).

family violence courts within existing courts in their jurisdictions.<sup>10</sup> The Commission recommended state and territory governments should ensure that these courts have, as a minimum:

- (a) specialised judicial officers and prosecutors;
- (b) regular training on family violence issues for judicial officers, prosecutors, lawyers and registrars;
- (c) victim support, including legal and non-legal services; and
- (d) arrangements for victim safety.<sup>11</sup>

## The Southport Domestic and Family Violence Specialist Court

The Domestic and Family Violence Specialist Court in Southport was implemented in response to the recommendations in the February 2015 report of the Queensland Special Taskforce on Domestic and Family Violence. The specialist court handles both civil applications for protection orders, as well as criminal matters related to domestic and family violence (breaches, and associated criminal offending) within the Magistrates Court jurisdiction.

The Southport model has the following:

- specialist magistrates in dedicated courtrooms to hear all civil domestic and family violence order applications, and breaches of orders and related criminal charges proceedings
- in the civil jurisdiction, cases follow the magistrate (i.e. adjourned to a time when the matter can be heard by the same magistrate)
- in general, more time to consider civil applications
- a dedicated court registry, with staff who have an understanding of domestic and family violence and protection order proceedings
- increased support (both for victims and perpetrators) at the courthouse through enhanced legal representation by duty lawyers as well as a registry staff member in the support/safe room to access files and print out orders
- a dedicated information desk on the same floor staffed by volunteers to assist both victims and perpetrators with accessing assistance, but to also coordinate the flow of victims and perpetrators through support services into court
- an emphasis on enhanced coordination through weekly stakeholder meetings, which are attended by at least one of the specialist magistrates.

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<sup>10</sup> Recommendation 32-1

<sup>11</sup> Recommendation 32-3



## The review of the Southport Domestic and Family Violence Court

By comparing the Southport Domestic and Family Violence Specialist Court to a conventional court model, the 12-month evaluation of the Southport model found that overall, the Southport model has made strong progress on its short and medium-term process outcomes.<sup>12</sup> There were strongly positive assessments of the specialist court both from stakeholders as well as those who use the courts. The evaluation states it was clear from the interviews and focus group discussions that a culture of innovation has developed at the specialist court. Particular outcomes of the review include:

- The role of the specialist magistrates was vital to facilitating collaborative change process in establishing the specialist court.
- The enhancement of strong collaborative relationships between the court, domestic violence services, police prosecutors and duty lawyers resulted in improved coordination of matters and services.
- Ratings of satisfaction and perceived procedural justness of the process reported by victims was higher at the specialist court, compared to the comparison court.
- Levels of self-reported understanding of court outcomes for both victims and perpetrators (although the findings were more mixed for perpetrators) were higher at the specialist court, compared to the comparison court.
- There were indications that perceptions that offenders were being held accountable were higher at the specialist court, compared to the comparison court.
- The achievements to date suggest that the **fairly modest additional cost** of the specialist court may be justified.

Finally, **the review concluded the application of a specialist *approach* to domestic and family violence in other communities was seen as feasible.** This could mean a specialist court in some locations, but different strategies in other locations. In other words, the approach needs to be adapted to local needs and circumstances:

- Support and assistance is even more crucial to ensure access for diverse populations.
- Collaborative consultation with Aboriginal and Torres Strait Islander communities is needed to ensure culturally appropriate adaptations.
- A tiered approach to specialisation, based on rural/remote, regional and urban, would allow for local conditions to be considered in any implementation of a specialist approach.

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<sup>12</sup> Read the full report of the review at [Evaluation of the Specialist Domestic and Family Violence Court Trial in Southport](#)