

# ANROWS

AUSTRALIA'S NATIONAL RESEARCH  
ORGANISATION FOR WOMEN'S SAFETY  
*to Reduce Violence against Women & their Children*

**Family Report Writers**  
**Attorney-General's Department**  
3-5 National Circuit  
Barton ACT 2600

By email: [familyreportwriters@ag.gov.au](mailto:familyreportwriters@ag.gov.au)

## **Re: Improving the Competency and Accountability of Family Report Writers**

Dear Attorney-General

ANROWS thanks the Attorney-General's Department for the opportunity to respond to the consultation paper on improving the competency and accountability of family report writers.

ANROWS is an independent, not-for-profit company established as an initiative under Australia's *National Plan to Reduce Violence against Women and their Children 2010-2022* (the National Plan). Our primary function is to provide an accessible evidence base for developments in policy and practice design for prevention and response to violence against women, nationally. Every aspect of our work is motivated by the right of women and their children to live free from violence and in safe communities. We recognise, respect and respond to diversity among women and their children, and we are committed to reconciliation with Aboriginal and Torres Strait Islander Australians.

Primary (core) funding for ANROWS is jointly provided by the Commonwealth and all state and territory governments of Australia. ANROWS is also, from time to time, directly commissioned to undertake work for an individual jurisdiction, and successfully tenders for research and evaluation work. ANROWS is registered as a harm prevention charity and deductible gift recipient, governed by the Australian Charities and Not-for-profit Commission (ACNC).

The submission provided below is focused on questions two and four of the consultation paper: content of a family report, and competencies and skills. It draws on evidence from rigorous peer-reviewed research, including relevant ANROWS research.

We would be very pleased to assist the department further, as required.

Yours sincerely



**Padma Raman PSM**  
Chief Executive Officer

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# Response to selected questions

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## **Question 2: Content of a family report**

### **What minimum content should a family report require?**

A family report aims to assess the current parenting situation in order to assist the Family Court in determining future parenting arrangements. Given the impact a family report can have on the parents' and children's lives in determining parenting decisions (Kaspiew et al., 2014), and the critical evidence the family report provides (Jeffries et al., 2016), there is a minimum level of content that should be included in these reports to ensure the best outcomes for the child are accurately assessed and included in the recommendations (Field et al., 2016).

It is ANROWS's view that the minimum required content of a family report is:

#### **1. A domestic and family violence assessment**

Cases in the Family Court that require a family report relate to parenting disputes, and report high numbers of domestic and family violence (DFV; Wangmann et al., 2020). In the Evaluation of the 2012 family violence amendments, Kaspiew et al. (2015) found that parents who used the courts to resolve parenting disputes had reported emotional abuse (eighty five percent) and physical violence (fifty three per cent). An Australian Parliamentary report from 2017 that examined the rates of DFV allegations reported that 50 per cent of disputes in the Family Court and 70 per cent in the Federal Circuit Court involved allegations of violence (House of Representatives Standing Committee on Social Policy and Legal Affairs, 2017). ANROWS research found that 25 per cent of mothers reported experiencing physical abuse, and two thirds reported emotional abuse prior to separation (Kaspiew et al., 2017). These reported high levels of abuse, and the risks posed to women who leave relationships where there are allegations of DFV (Domestic Violence Death Review Team NSW, 2017; Tarrant et al., 2019), need to be substantially addressed in the family report, therefore a thorough DFV assessment should be a core part of the family report rather than a separate assessment to ensure the safety of the victim and survivor and the children is reported to the court (Australian Institute of Family Studies, 2007).

#### **2. Assessment of children's wellbeing**

To not place all of the onus on women alleging abuse, family reports should outline the impact of DFV on the children as a key content requirement (Kaspiew et al., 2017). The impact child abuse can have on children can lead to devastating long-term consequences for their wellbeing (Campo, 2015). An assessment to determine whether the child is experiencing adverse impacts from the exposure to DFV, such as social, emotional, mental health issues or complex trauma would be able to provide the court with a recommendation that is in the child's best interest as well as further recommendations on and necessary therapeutic intervention to support the child (Kaspiew et al., 2017). ANROWS's 2017 National Community Attitudes towards Violence against Women Survey (NCAS) illustrated that there is significant community mistrust levelled at women going through parenting disputes in the Family Court, based on a belief that women make up or exaggerate claims of domestic violence in order to improve their case (Webster et al., 2018). Given the level of doubt in women's reasons for claiming they deserve full parental rights,

a thorough, professional assessment of children's wellbeing (physical, developmental and mental) is an essential part of the family report to ensure child wellbeing is appropriately assessed and factored into recommendations.

**3. Consultation with the child or children**

The intended purpose of a family report is to assist the judge in making a parenting decision that is in the best interests of the child or children. To achieve this, there needs to be a clear indication the children have been consulted and listened to (Carson et al., 2018). There is also an obligation on the court to take children's views into account when making parenting decisions (Kaspiew et al., 2014). A study from the Australian Institute of Family Studies (AIFS) in 2018 reported that 76 per cent of children and young people wanted their parents to listen to them when making parenting arrangements (Carson et al., 2018); children's voices can often be left out of decisions that impact them greatly. The parenting arrangements greatly impact children and as the purpose of the family report is to assist the judge in making the parenting decisions that directly impact the children, the report should contain consultation with them and involve them in the decision-making process (Carson et al., 2018). It is also important to examine the impact DFV can have on children and to note any trauma that may manifest in different ways (Campo, 2015), depending on developmental stage, attachment and siblings (Family Court of Australia et al., 2015).

**4. Risk assessment**

We know that separation can increase the risk of violence. Given the nature of some aspects of DFV such as coercive control, a risk assessment of future violence or retaliation needs to be considered when writing a family report (Domestic Violence Death Review Team NSW, 2017). The impact a family report may have on the parenting outcomes and the further impact the parenting outcomes could have on an offender, or potential offender, need to be considered. If a risk assessment is included in a family report it could potentially decrease the risk of further, or escalation of, abuse and ensure a proactive rather than reactive response (Tarrant et al., 2019). At the very least, a sound risk assessment could provide recommendations for safeguarding the victims and survivors (Toivonen & Backhouse, 2018).

**5. Family dynamics and capacity of each parent**

DFV can greatly impact family dynamics (Humphreys et al., 2020). Direct abuse, the impact of experiencing DFV, or being cared for by someone who is either the victim and survivor of abuse, or the perpetrator of DFV, can have a negative impact on children (Kaspiew et al., 2017). This impact needs to be considered in terms of the parents' capacity and the dynamics in the family (parent-child). A thorough, DFV-informed assessment of the relationship each child has with each parent, and the ability of that parent to meet the needs of the child/children needs to be undertaken in order to make an assessment of the impact on the child of maintaining a relationship with the perpetrator (Kaspiew et al., 2015).

The family report should include an indication if therapeutic support to recover from DFV for the child or parent would be beneficial. In addition, in supporting this recovery, also consider whether the benefit of the child maintaining a relationship with a parent that has perpetrated DFV outweighs the potential for detrimental impact on the majority time parent's capacity to meet the child's needs (Kaspiew et al., 2017). Failure to consider these issues carefully in a family report can have flow-on effects in terms of parenting orders, and compliance with them, which will be further illuminated in future ANROWS-funded research entitled, *Compliance with and*



*enforcement of family law parenting orders: Views of professionals and judicial officers* (Kaspiew et al., in press).

6. **Third-party evidence/consultation** (independent children's lawyer, school, psychologist etc.)  
Third-party evidence or consultation with experts such as child psychologists, the independent children's lawyer (ICL), the children's school, social workers or mental health professionals would be effective information gathering and provide a better understanding of the children's wellbeing and what they want (Kaspiew et al., 2014). An ICL is commonly appointed in complex cases, such as those where DFV and/or child abuse is a factor; to not include the ICL in the consultation would silence the wants and needs of the children in the parenting decisions (Kaspiew et al., 2014). The ability to consult with a child's school can also decrease the risk of systems abuse and avoid the child having to repeat information (Kaspiew et al., 2014). In instances where mental health impacts or alcohol and other drugs use have been a factor, third-party consultation with a psychiatrist or psychologist could provide a better understanding of the parenting capacity of each parent (Humphreys et al., 2020). In instances where a social worker has previously been assigned to the family, their knowledge of the history of the relationship and the parenting dynamics would be invaluable insight (Kaspiew et al., 2014). If these consultations were to be a part of the family report it would ensure that the social worker assigned to maintain the wellbeing of the children would have their expert assessments included in the decision-making process (Field et al., 2016).
7. **Provide recommendations for parenting arrangements**  
The content of the family report should include recommendations for parenting arrangements that would promote the child's wellbeing, subject to questions of fact being determined by the court. These recommendations should detail any necessary therapeutic needs for each parent and for the child/children, so that they can be properly considered by the court when making parenting orders. Recommendations provided in the family report after a thorough assessment, risk assessment and third-party consultation by a family report writer could ease the burden on mothers who have made allegations of DFV that have been seen as a sign of retaliation or punishing the father (Webster et al., 2018).

Addressing therapeutic needs in these recommendations will reduce the chance of long term impacts of experiencing DFV on the parents and the child/children. This could reduce the chance of fractured parental relationships (Kaspiew et al., 2015) and support recovery in the mother-child relationship where necessary (Kaspiew et al., 2017). Alongside preventing the child/children from developing a range of health, developmental and social problems associated with experiencing DFV, providing impetus to address their therapeutic needs could also make an impact on intergenerational cycles of violence. This is because children who live with DFV are at a higher risk of perpetrating or becoming a victim and survivor of violence in later life (Campo, Kaspiew, Moore, & Tayton; Flood & Fergus; Holt, Buckley, & Whelan; Humphreys, Houghton, & Ellis; Kaspiew et al.; Richards; Stith et al. all as cited in Webster et al., 2018).

## **Recommendation**

The minimum content in a family report should include a domestic and family violence assessment, risk assessment, history of the relationship, consultation with the child or children, family dynamics, parental capacity, third-party consultation, mental health and alcohol and other drugs assessment, and provide

recommendations for parenting arrangements. As these factors are significant for women's and children's safety, and in the interests of procedural fairness, all cohorts of family report writers should follow the same requirements for writing family reports to ensure consistency in application and fairness.

## **Question 4: Competencies and skills**

### **What skills and competencies should family report writers have?**

For a family report to address the necessary requirements, family report writers need to have specific skills and competencies. In order to provide recommendations in a family report, family report writers must be able to confidently make recommendations based on their knowledge and training. For these skills and competencies to be gained, training that is part of continuing professional development should be a requirement for professionals appointed to write a family report.

Based on the content required in the family report these skills and competencies are:

- knowledge of DFV (including coercive control; Jeffries, 2016, and social entrapment theory; Tarrant, Tolmie & Giudice, 2019): this extends to knowledge of child abuse and impact of trauma (including intergenerational trauma; Kaspiew et al., 2014). Knowledge in these areas can allow for a better assessment of parenting capacity and the impact DFV can have on this (Kaspiew et al., 2017). Knowledge of the complex dynamics of coercive control allows for a more accurate assessment that does not only look at the physical violence dimension of DFV but also at the emotional and psychological abuse (Rathus et al., 2019). Understanding of social entrapment theory and how the framework enables the court to see the pattern of abuse and how this constrains the victim, structural inequities and the multiple levels of disadvantage the victim experiences, and how help-seeking behaviour has been responded to by agencies and informal networks (Tarrant, Tolmie & Giudice, 2019)
- experience in DFV risk assessment, including suicide: an ability to understand the risk posed to women and children who have fled DFV (O'Neill et al., 2018; Toivonen & Backhouse, 2018) is an essential competency for a family report writer given the increase in risk at separation (Tarrant et al., 2019)
- awareness and understanding of how factors, including gender identity and sexual preferences, cultural factors, culturally and linguistically diverse (CALD) backgrounds, disability (Robinson et al., 2020) and alcohol and other drug use, and mental health impacts (Humphreys et al., 2020) intersect with DFV. It is particularly important that family report writers understand the terminology used by Aboriginal and Torres Strait Islanders and the barriers experienced recognising and reporting DFV in order to protect from outside intervention (Olsen & Lovett, 2016). Women in CALD communities can also experience other forms of abuse such as immigration issues and interfamilial financial abuse (Vaughan et al., 2016). Women with disability may experience abuse that extends beyond physical, withholding medication or refusing physical assistance, they can also experience threats against assistance animals that can be considerably traumatic (Harpur and Douglas, 2014)
- knowledge of systems abuse, whereby men control their partners/ex-partners by manipulating definitions and the support systems available (Kaspiew et al., 2017): this is also an important requirement to ensure women are not further manipulated in what can already be a highly volatile situation. An understanding of how either parent may be attempting to manipulate the

other by abusing social support systems (Kaspiew et al., 2017) would be advantageous for the accuracy of the family report

- knowledge of or experience with the Safe & Together Model™ (Humphreys et al., 2020): while this is currently a requirement for in-house family consultants (including Regulation 7 family consultants), it is optional for single expert witnesses. The advantage of a family report writer possessing this knowledge would result in a child-centred report with a better understanding of power and control patterns and the impact parental misuse of alcohol and other drugs, and mental health impacts can have on the child (Humphreys et al., 2020)
- experience in information-gathering from third parties: the skill of knowing which parties to consult with, and when, is an important part of the family report writer's competencies (Family Court of Australia et al., 2015). To be able to gain better insight into the family dynamics, parenting capacity (Humphreys et al., 2020) and needs and wants of the children, third parties with expertise or who have already been working with the family (social workers, school etc.) can provide this insight (Kaspiew et al., 2014) and a competent family report writer should know when to seek this information out, and from whom
- knowledge of family law, the rules of evidence and cross-examination (Wangmann et al., 2020): If consultation with an ICL takes place then the need for knowledge of family law is somewhat reduced. However, in cases where an ICL is not appointed, knowledge of family law would be an advantage (Kaspiew et al., 2014). Understanding of how the family report is used in the court system is also desirable, in terms of knowing how the report will be entered into evidence and understanding how the family report writer being cross-examined could assist in the family report's recommendations being used in making parenting decisions
- ability to be clear and concise and write in plain language: this is particularly important for parents who self-represent themselves in court (Wangmann et al., 2020). Parents who are self-represented litigants (SRL) are not likely to have the legal capability to be able to comprehend the detail in the family report or to cross-examine the family report writer (who is often an expert in their field; Wangmann et al., 2020)
- the ability to consult with the children: a child-focused expert should also be skilled in assessing the social, emotional and mental health of children and young people at all developmental stages, including in making assessment of impact of exposure to family violence, alongside listening to their needs and wants (Carson et al., 2018). This competency could also assist the family report writer in being able to read the nuances of how children at different ages communicate as well as making the children feel comfortable sharing their views (Kaspiew et al., 2014).

## **Recommendation**

Family report writers need to have a sound understanding of domestic and family violence (DFV) and the impact of trauma on children and parents. In order to convey the impacts of DFV on both parents and children, knowledge in this area is essential. If the report writer does not have sound knowledge of DFV they cannot be expected to understand the impact of trauma on a child and how this may manifest. Other essential competencies are risk assessment experience, cultural knowledge (including of Aboriginal and Torres Strait Islander and culturally and linguistically diverse communities), awareness of challenges priority groups may face, systems abuse awareness, knowledge of the Safe & Together Model™, and experience in third-party consultation. Specialised competencies that would be an advantage (for a more complex case for example) but not essential would be an understanding of family law, ability to write in plain language, awareness of unconscious bias and knowledge of child development. In ANROWS's view,

the key competencies required for a family report writer are the skills without which there would be a direct impact to women's and children's safety, or disadvantage to diverse groups of women and children.



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