



Enhancing Civil Protections and Remedies for Forced Marriage

Attorney-General's Department

30 September 2024

Acknowledgements

We acknowledge the Traditional Owners of Country, recognise their continuing connection to land, water, and community, and pay respect to Elders past and present.

We acknowledge the victim-survivors of domestic, family, and sexual violence who we work with and their voices and experiences which inform our advocacy for justice, equality, and safety for women.

About Women's Legal Services Australia

Women's Legal Services Australia (**WLSA**) is the national peak body for 13 specialist Women's Legal Services in each state and territory across Australia, including two First Nations Women's Legal Services. We provide a national voice for Women's Legal Services to influence policy and law reform, and advocate to increase access to gender-specialist, integrated legal services for women.

About Women's Legal Services

Women's Legal Services provide high quality free legal services for women, including legal advice and representation, support services and financial counselling, community legal education, training for professionals, and engage in advocacy for policy and law reform. Some Women's Legal Services have operated for more than 40 years.

WLSA members include:

- Women's Legal Service Victoria
- Women's Legal Service Tasmania
- Women's Legal Service NSW
- Women's Legal Service WA
- Women's Legal Service SA
- Women's Legal Service Queensland
- North Queensland Women's Legal Service
- First Nations Women's Legal Service Queensland
- Women's Legal Centre ACT
- Wirringa Baiya Aboriginal Women's Legal Centre NSW
- Top End Women's Legal Service
- Central Australian Women's Legal Service
- Katherine Women's Information and Legal Service

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Women's Legal Services Australia

Introduction

1. Women's Legal Services Australia (**WLSA**) welcomes the opportunity to provide a submission on Enhancing Civil Protections and Remedies of Forced Marriage. We are pleased to see the Commonwealth Government's focus on strengthening Australia's response to forced marriage.
2. Women's Legal Services across Australia assist women who are in forced or arranged marriages and are experiencing domestic and family violence. One of our members, Women's Legal Service Victoria, estimates 20 percent of their clients assisted with migration matters have experience forced marriage in their life. In their experience, a typical client will have been forced into marriage at a young age and has then subsequently arrived in Australia on a partner, spousal or carer visa.
3. In our experience, most clients seek legal assistance after the marriage. Some of our clients have reported being forced to marry because their sexuality is not acceptable in their home country.

Part 1: Building a shared understanding of forced marriage as a form of family and domestic violence to improve victim-survivors' access to family and domestic violence services

Consultation question 2: Should forced marriage be recognised as a form of family and domestic violence?

4. It is our view that forced marriage should be explicitly recognised as a form of family and domestic violence in State and Territory legislation, as well as Commonwealth legislation, such as the *Family Law Act 1975 (Cth)*.¹ Unlike other forms of modern slavery (such as labour exploitation, debt bondage or domestic servitude), it is our experience that forced marriage is often perpetrated by a family member.
5. In our experience, forced marriage is strongly linked with other forms of family violence including sexual abuse, physical and economic abuse, as well as within the broader context of coercive control. Women in forced marriages require similar supports to other victim-survivors seeking to escape coercive and controlling relationships.
6. Women in forced marriages are particularly vulnerable to extreme forms of coercive control and family violence. There are significant barriers and risks that prevent help seeking.
7. Women in forced marriages have limited opportunities for education and economic independence. In our experience, clients in forced marriages are often expected to focus on maintaining the marriage rather than pursuing their own goals.
8. Leaving a forced marriage may result in family support being withdrawn, increased safety risks, isolation, poor mental health, impacts on spiritual and cultural connections, homelessness and poverty.
9. While explicitly recognising forced marriage within legislative provisions will strengthen options for remedy, we note that our client's experiences of family violence within forced marriage contexts already meet relevant thresholds for the forced marriage to be considered a form of family and domestic violence.

¹ Section 4AB *Family Law Act 1975 (Cth)*.

10. In our view, while a shared understanding of forced marriage can and should be achieved through legislative change, increased access to family and domestic violence services must be the priority. This can only be achieved through significant investment, particularly in gender-specialist services such as Women's Legal Services.
11. While WLSA is supportive of recent government commitments including the new Forced Marriage Specialist Support Program, it is notable that commitments announced do not address the barriers to accessing specialist services.
12. Based on recent data collected by WLSA, we estimate 1,000 women are turned away from Women's Legal Services across Australia each week due to lack of resources and capacity to assist, including victim-survivors of forced marriage. In our view, it is only with increased capacity across the system, including to wraparound legal and support service providers such as Women's Legal Services, that victim-survivors will have the appropriate supports they need to leave forced marriages and experience safety and economic independence.

Consultation question 3: What legal, policy changes or additional guidance is needed to better recognise forced marriage as a form of family and domestic violence?

13. As above, it is our view that changes to legislation at Commonwealth, State and Territory levels are needed to ensure that forced marriage is recognised as a form of family and domestic violence.
14. At a policy level, system responses must be client-centred, culturally safe and promote women's safety and agency. The wishes and safety needs of the victim-survivor must be prioritised. Notably, a culturally sensitive approach should be adopted which focuses on working with women to achieve desired legal and non-legal outcomes and promote safety regardless of whether the marriage is forced or arranged.
15. Further, collaboration at the State/Territory and Commonwealth level is required to mitigate the risk of punitive legal outcomes, particularly in migration matters.
16. Some women who are forced into marriage would have been dishonest on their visa applications to enter Australia. In some cases, the woman will be unaware of incorrect information being provided on a visa application by the perpetrator. In our experience, these women are often not eligible for protection visa grounds due to the high threshold. However, she may hold concerns around honour killings or returning to their home country.
17. Women on temporary visas who claim the relationship is a forced marriage in another proceeding, for example, a family violence application or family law proceeding, risk undermining their own visa claims as partner visas require a genuine relationship to be established before Home Affairs will consider the claimed family violence.
18. The possibility that Home Affairs may take a punitive approach to women who 'lied' on their visa application contributes to women remaining in abusive marriages until they are able to secure a visa.
19. There are limited options for women on temporary visas in forced marriages who have not been trafficked. Often identity documents are an issue where forced marriage has occurred underage.
20. In our view, the family violence visa provisions should be expanded to provide a suitable visa pathway for women in forced marriages. The provisions must ensure that for the purposes of the family violence visa, forced marriage does not undermine the validity and genuineness of the relationship.

21. Home Affairs Procedural Advice Manuals (PAMs) used when assessing protection visa applications also need to include forced marriage as a form of family violence. Victim survivors of family violence is an established convention ground “membership of a particular social group” whereas risk of forced marriage or has experienced forced marriage is a less-commonly understood social group. This is due to the risk of understanding of the complexities, including the ongoing risk of persecution due to risk or lived experience of forced marriage.
22. In addition, changes to the Migration Regulations need to be actioned to include forced marriage as a form of family violence. Home Affairs website under the microsite,² “*domestic and family violence and your visa*”, also needs to be updated to include information around forced marriage.
23. Guidelines for judicial officers, including State and Territory Local Courts, the Federal Circuit and Family Court of Australia, and the Administrative Review Tribunal guidelines will also need to be updated to ensure there is clear guidance for Judicial Officers/Members on assessing forced marriage and how this is a form of family violence.

Consultation question 4: What enhancements or additional guidance might be needed to help family and domestic violence services consistently recognise forced marriage as a form of family and domestic violence?

24. It is our view that efforts to address forced marriage at a national level are unlikely to be effective unless practical support is provided to women on temporary visas. Priority should be given to investing in practical support, such as legal advice and representation, income support, housing, access to Medicare and other practical supports. The absence of practical supports compels women to remain in forced marriages.
25. We note that while temporary support packages are available to women escaping violent relationships, it is challenging for women in forced marriages that involve non-physical forms of coercion and control to access support.
26. Additional guidance for family and domestic violence services could and should include:
 - a. Plain English guides to forced marriage, including how forced marriage can occur and signs of same, including pre and post forced marriage;
27. Plain English materials about family violence, as well as family violence orders – with additional funding, Women’s Legal Services could develop these for their local region/jurisdiction or adapt already developed materials for this purpose; and
 - b. Dedicated training workshops, some of which are already available.
28. The above materials would also serve to emphasise to family and domestic violence services that existing identification skills can and should be utilised in matters of forced marriage – as noted above, presentations of forced marriage are often within the context of family violence.
29. While materials would assist family and domestic violence services, we reiterate that the ongoing issue for the family violence sector is lack of resources and capacity – without increased investment in the frontline family violence sector, including Women’s Legal Services, enhanced knowledge and understandings of forced marriage will be ineffective in assisting broader sections of the community because they will still be unable to access the very services trained to assist and respond.

² [Domestic and family violence and your visa \(homeaffairs.gov.au\)](https://www.homeaffairs.gov.au)

Part 2: Enhancing education and awareness raising

Consultation question 5: What topics could education or awareness raising activities focus on?

30. Women should not be expected to leave forced marriage to access support. In our experience, women in forced marriages can be reluctant to seek support out of fear that their children will be removed, as well as fears relating to their visa status and/or family backlash.
31. Engaging with legal processes can expose women to additional safety risks and punitive consequences. Some women in forced marriages do not want to engage with a legal process for religious or cultural reasons. Their wishes should be respected.
32. Distinguishing between forced and arranged marriages is complex as it depends on the nature of the family dynamics and the woman's expectations. Services need to be cautious not to impose western understandings of marriage on communities where arranged marriages are the norm.
33. Some women may experience a level of coercion from family members whilst ultimately accepting the arrangement. Others may appear to consent to the marriage or remain in a marriage they never wanted because of the importance of familial, cultural or religious ties and the impact of being cut off from their community or shamed for leaving a marriage.
34. Exploring whether the marriage is forced or arranged and what outcome clients want for their lives requires highly experienced, culturally-sensitive practitioners, such as those working within gender and family violence specialist legal and support services, including Women's Legal Services. It is important not to assume what value women place on various aspects of their lives or underestimate the practical consequences for women of seeking to end a forced marriage.
35. In our view, it is the above topics that should be the focus of education and awareness raising activities, with input from the specialist family violence sector, as well as ongoing involvement of lived experience advocates, including to ensure that activities are culturally safe and relevant to differing sections of the culturally and linguistically diverse community.

Consultation question 6: Who should be involved in education and raising awareness in communities affected by forced marriage?

36. It is our view that participation from the specialist family violence sector, community legal sector, lived experience advocates, cultural safety experts, and community representatives across the spectrum of cultural and linguistic diversity is required to ensure that information and messaging about forced marriage can reach all relevant parts of the community.
37. At a high level, we suggest the following groups:
38. Lived experience advocates;
39. Local community culturally and linguistically diverse groups and/or organisations;
 - a. Local schools, with particular emphasis on primary schools, where children are likely to return home and share learnings with recently arrived migrants parents;
 - b. First responders, including Police and Health service providers;
40. Frontline services, including community legal centres, family violence sector workers, migration/immigration support services, including settlement services;
41. Legal system representatives, including judiciary, court staff, legal practitioners;

- c. Local frontline networks, including migration networks, family violence networks, and legal service networks, such as WLSA.
42. It would be most effective to engage with a small group of stakeholders to first develop materials and then engage with all relevant stakeholders to implement. As noted above, any education and awareness raising activities must be accompanied by investment in services to provide support.

Consultation question 7: Which groups in the community require education and increased awareness of forced marriage?

43. Community-based prevention strategies are required to assist with shifting attitudes, promoting cultural change and supporting young girls at risk. These early intervention strategies must be co-designed with communities rather than imposed by external agencies and this will require additional funding and coordination.
44. It is the experience of Women's Legal Services that the judiciary in Federal, State and Territory Courts do not always recognise forced marriage as part of the history of violence and coercion.
45. State and Territory Courts could consider implementing a specific court list within existing family violence lists to ensure that matters involved forced marriage are triaged and dealt with by specifically trained judicial officers.
46. WLSA has previously recommended that the Australian Government fund and coordinate the development of a national comprehensive family violence training program for family law legal professionals (including independent children's lawyers and family dispute resolution practitioners) and work with state and territory law institutes and bar associations to implement the training.³ This recommendation has not been adopted. We note that \$0.9 million over 4 years was announced by the Federal Government to develop and deliver continuing professional development (CPD) training for legal practitioners on coercive control, WLSA has submitted to the Attorney-General's Department that this funding is not sufficient to develop a national comprehensive family violence training program for legal professionals.⁴
47. WLSA recommended that the training modules for family law professionals should include training on:
- a. the intersection of family law, child protection and family violence;
 - b. cultural competency in relation to working with Aboriginal and Torres Strait Islander clients, including training that builds an understanding of the multiple and diverse factors contributing to the high levels of family violence in Aboriginal communities, and an understanding of Aboriginal and Torres Strait Islander family structures and child rearing practices as well as maintaining appropriate referral procedures, policies and relationships with Aboriginal Community Controlled Organisations;
 - c. cultural competency in relation to working with clients of a CALD background (including working with interpreters);
 - d. working with Lesbian Gay Bisexual Transgender Intersex Queer (LGBTIQ+) families;
 - e. working with people with a disability;

³ WLSA submission to House of Representatives Committee 2017, Attachment A, WLSA submission to the Australian Law Reform Commission's Issues Paper on the Review of the Family Law System, 2018, page 41 <[WLSA submission to the ALRC Review of the Family Law System](#)>

⁴ WLSA submission to the Attorney-General's Department, Response to Discussion Paper: Continuing Professional Development for Legal Practitioners on Coercive Control, July 2023 <[230721-WLSA-submission-Coercive-control-CPD-training-FINAL.pdf](#)>

- f. working with vulnerable clients; and
 - g. trauma-informed practice.
48. WLSA recommends that understanding domestic and family violence be included as a mandatory subject in law degrees.
49. WLSA also recommends that understanding domestic and family violence be included as a mandatory CPD topic for Registered Migration Agents who are often the first or only point of contact for victim-survivors of family violence and modern slavery.
50. It is important to note that forced marriage practises can also occur in First Nations communities – especially remote communities. Additional guidance should be sought from Elders and other important community members should be sought to ensure that, firstly trust is established and, secondly, an appropriate understanding of the relevant issues for the particular communities in a culturally respectful way. Police officers, health workers (including within hospital and clinical settings), court officers, judicial officers, and child protection professionals should also receive specific training with a particular focus on forced marriage in First Nations communities.

Part 3: Strengthening civil protections and remedies

Consultation question 8: Do you think there are gaps in the existing legal protections available to respond to and prevent forced marriage in Australia? If so, what are those gaps and do they need a national response?

Annulment

51. Pursuant to section 51 of the *Family Law Act 1975* (Cth), to seek a decree of nullity in the Federal Circuit and Family Court of Australia, the Court must be satisfied that the marriage is void. It is challenging to establish that the client's consent was either not obtained or obtained by duress or fraud. For marginalised young women in forced marriages, the legal process is costly and virtually impossible to navigate without legal assistance.
52. While applying for divorce is more straightforward, some women have religious or cultural reasons for avoiding divorce or for seeking an annulment.
53. In addition, we note that there are other legal consequences related to a marriage relationship; for example, the areas of wills and estates, as well as superannuation, are two areas of law with potential relevance.
54. Consideration could be given to lowering the threshold to apply for a certificate for nullity. Any expansion of civil remedies at Commonwealth or State level needs to ensure there are no punitive consequences, for example on assessment of whether there is a genuine relationship for the purposes of visa application.
55. In addition, consideration could also be given to exempting the applicable fee for both an application for nullity or divorce in circumstances of financial hardship and/or when the applicant is receiving legal assistance from an approved service provider (noting that this includes Women's Legal Services). This exemption would be consistent with all other fees payable within the Federal Circuit and Family Court of Australia jurisdiction.

Parenting and property matters

56. The Federal Circuit and Family Court of Australia only has jurisdiction to make parenting orders if the parties have separated. There is also no requirement to consider how the marriage came to exist. It is up to the woman to attempt to place evidence before the court to link the forced marriage to risk. This is a difficult argument to make as the focus in those proceedings is whether the party poses an ongoing risk to the child. Coercive control by other family members to marry or remain marry is generally not relevant.
57. In property settlement proceedings, a forced marriage does not usually impact on the division of the property pool as a property settlement can occur after separation. However, this is more complex if a woman sought an annulment because the other party is likely to argue there is no property settlement entitlement because of the relationship not ever having existed.
58. We also recommend clarifying the relevance of forced marriage in family law proceedings, including in the definition of domestic and family violence at section 4AB of the *Family Law Act 1975* (Cth).

Migration

59. Temporary visa holders in Australia who are at risk of, or who have experienced forced marriage, face a complex migration system which is not adequate to address this issue and often fails to meet the needs of victim-survivors.
60. Under the current migration process, if a person is in Australia on a temporary visa (other than a partner visa) and at risk of, or experiences, forced marriage, they have two options:
 - a. Navigate the Human Trafficking Visa Framework; or
 - b. Apply for a protection visa.
61. These two pathways are quite different, although both place a significant onus on the visa-applicant and victim-survivors of forced marriage. In our view, both systems are flawed which leads to people slipping through cracks.
62. When navigating the Human Trafficking Visa Framework, a victim-survivor of forced marriage may receive a Bridging Visa F (**BVF**) which is valid for up to 45 days, so they may remain lawful in Australia while making arrangements to depart the country.
63. A victim-survivor may also receive a BVF (assistance notice), which is a visa that remains in effect for the length of criminal proceedings against the perpetrator of forced marriage. In this circumstance, the victim-survivor must show that they engaged in the criminal justice process and are co-operating with the Australian Federal Police (**AFP**) and the relevant prosecution body.
64. A victim-survivor may also be invited to apply for a Referred Stay Visa. This visa, if granted, would allow the visa holder to remain in Australia as a permanent resident.
65. Noting that a victim-survivor must engage with the AFP and assist in the investigations in relation to the alleged forced marriage, in our experience this creates a number of barriers, including;
66. Victim-survivors often do not want to pursue a criminal avenue in relation to the perpetrator/s because they are family members to whom the victim-survivor is emotionally connected, or they do not want to get their family in trouble;
67. Victim-survivors often do not want to engage with the AFP due to a fear of police or law enforcement. In these circumstances, it is our view that it is not trauma-informed to require a

victim-survivor of a forced marriage to cooperate with law enforcement, and this significantly removes autonomy from the victim-survivor. In addition, linking a person's visa status to their co-operation with police inherently punishes a victim-survivor who does not want to pursue criminal charges against their perpetrator. While the intention may have been to reward victim-survivors who cooperate with law enforcement, ultimately this approach aims to coerce vulnerable individuals into cooperating with law enforcement;

- a. To remain in Australia permanently, the victim-survivor must be 'invited' to apply for a Referred Stay (subclass 852) visa (**RSV**). They cannot apply for the visa without first having an invitation issued from the Department of Home Affairs. In practice and in our experience, this is discretionary and there is no transparency as to why one person may be invited to apply for a RSV, but not another; and
 - b. Options available to the victim-survivor often hinge on their being "in danger" if they are returned to their country of origin. In practice and in our experience, the Department of Home Affairs often contacts the AFP (not the victim-survivor) to enquire if the victim-survivor of forced marriage would be in danger if returned to their country of origin. This is a flawed exercise as the AFP does not have the powers to investigate the victims-survivors' circumstances in their original country of nationality.
68. The Protection Visa Framework may be an option if someone is at risk of, or has experienced, forced marriage, where they may apply for a protection visa if they engage Australia's protection obligations.⁵
 69. We note that under the protection visa framework, the applicant needs to show that there is a 'real risk of persecution' in 'all areas of the receiving country', which is a significantly higher threshold compared to when applying for a RSV, where the applicant only needs to show that they would face 'danger' if returned to their country of origin.
 70. The Protection Visa Framework is the only option available to someone if they have experienced forced marriage in another country and is then seeking safety in Australia. It is also the preferred avenue for a victim-survivor of forced marriage as it does not require engagement with the AFP and the criminal justice process. The transparency provided throughout the protection visa process and ability to access a merits assessment provides better accountability to the visa applicant than the RSV.
 71. In our view, there is strong need for a further option – a new Family Violence Visa.
 72. In practice, the Human Trafficking Visa Framework, designed to assist victim-survivors of modern slavery including forced marriage, is not fit for purpose. There is a significant onus on victim-survivors and the Framework lacks both transparency and accountability which inherently limits its effectiveness in practice.
 73. Meanwhile, the Protection Visa Framework is not an appropriate framework for responding to victim-survivors of forced marriage. The fact that a separate Human Trafficking Visa Framework was introduced after the Protection Visa Framework was in place is evidence of government acknowledgement that there should be a better solution than the protection model. However, both models in place currently are largely flawed and not meeting the needs of victim-survivors.
 74. If introduced, a family violence visa could fill the gaps in the current model and solve additional complexities which victim-survivors can face that are not addressed through either model above. A family violence visa would assist victim-survivors who are worried about their visa status in Australia because their sponsor has threatened to withdraw their support or cancel the

⁵ [Australia protection obligations \(homeaffairs.gov.au\)](https://www.homeaffairs.gov.au/visas/visas-and-immigration/protection-visas/australia-protection-obligations).

visa of the person at risk of forced marriage (to coerce them into marriage) or the person who was forcibly married (as a means to coerce them into staying in the marriage).

75. A family violence visa could also be a more appropriate visa avenue for someone who would otherwise have permanent residency, or be on the pathway to permanent residency, if it weren't for the actions of the perpetrator.

Consultation question 9: This paper discusses two options to strengthen civil legal protections: Option A (enhance existing legislation, possibly through shared principles) and Option B (introduce standalone Commonwealth legislation). Which of these two implementation options would be most effective and why? What are the key risks? Are there other options that should be considered?

76. WLSA is supportive of the implementation option that provides the greatest flexibility, accessibility, and protection for persons seeking remedy to escape from or leave a forced marriage relationship.
77. In our view, Option A would be the most effective implementation option as it would leverage existing, specialist systems - family violence intervention legislation through local State and Territory courts - which already work alongside other relevant systems including Family Law, Migration, and Child Protection systems.
78. However, should Option B be preferred, WLSA is also supportive of jurisdiction being provided to State and Territory family violence courts to hear Commonwealth matters, effectively providing a middle pathway to provide additional flexibility in available Court Orders to address forced marriage whilst strengthening existing family violence systems and avoiding duplication.

Consultation question 10: Under Option A, are there civil protection frameworks alternative to family and domestic violence frameworks that could be used to strengthen forced marriage civil protections?

79. In addition to family and domestic violence frameworks, we suggest that both Family Law and State and Territory Child Protection frameworks be used to strengthen forced marriage civil protections.
80. As above, it is our view that forced marriage be included in the definition of "family violence" under the *Family Law Act 1975* (Cth). In addition, risks of harm to children can currently be captured under relevant State and Territory legislation, although it is critical to note that current systems are typically overwhelmed, and while empowered with broad understandings and definition of "risk", child protection authorities will typically only intervene in "high" risk situations, which may not include coercive control behaviours ahead of a forced marriage.

Consultation question 11: What evidence, or other types of actions, risks or harms connected to forced marriage should be considered as grounds for seeking a civil protection order for forced marriage?

81. WLSA is supportive of the grounds listed in the Consultation Paper including,
- a. Threats of harm to the person, or to another person, such as a sibling or other family member;
 - b. Risk or expectation of being taken overseas for the purpose of a forced marriage; and
82. The Respondent, or Respondents, engaging in coercive behaviour to force a marriage.

83. We note that under current State and Territory family violence legislation, threats of harm to a person are included as forms of family violence and consequently, will typically give rise to merit for a family violence protection/intervention order. In addition, we note that the applicable standard of proof for current State and Territory family violence legislation is the balance of probabilities.
84. It is our view that cultural evidence regarding the circumstances of entry into the forced marriage, if applicable, would be relevant to the consideration of whether a protection order is appropriate. This cultural evidence should be considered in both First Nations and culturally and linguistically diverse communities.
85. Evidence of the following may also be specifically relevant:
 - a. Acceptable cultural practises within a particular community;
 - b. What deviation, if any, has occurred in the circumstances before the Court;
86. What evidence does the person provide as to how they were brought into the marriage relationship; and
87. Whether a person says that they were forced to enter into a marriage relationship.
88. It is also important to note that, if the essence of a valid marriage is grounded in consent, then evidence from the woman as to her understanding of the marriage ceremony or process that led to her being in a marriage is very important. We suggest further consideration of whether there should be a presumption in legislation that if a party to a marriage says that they were forced into the marriage, it is presumed that they were in fact forced into the marriage, and it would be for the other party to the marriage to prove that the arrangement was not one of forced marriage.

Consultation question 12: Do the proposed protections listed above address the most common and significant risks and harms faced by people in or at risk of forced marriage, including children? If not, what else should be addressed?

Consultation question 13: Are there any other risks or unintended consequences of the proposed protections that should be considered?

89. WLSA considers that the proposed protections address the most common and significant risks and harms faced by people in or at risk of forced marriage, including children.
90. WLSA notes that some proposed protections already exist as remedies or available options in differing Civil and Family Law jurisdictions, including a Registry holding a protected person (child's) passport within the scope of litigated Family Law proceedings.
91. With respect to unintended consequences, WLSA reiterates that any changes to legislative frameworks and/or policies must be accompanied by increased investment in specialist legal assistance services such as Women's Legal Services for victim-survivors, including persons at risk of forced marriage.

Consultation question 14: Are there any additional people or organisations who should be able to apply for a civil protection order for forced marriage? If yes, who and why?

Consultation question 15: Are there risks associated with giving particular individuals or organisations the ability to apply for a protection order? If so, what are these risks and how could they be mitigated?

92. In our experience, effective drafting of persons with standing to make application for a family violence intervention order includes a general item for “an adult on behalf of a child”. This item typically catches an adult with knowledge of the child, including a teacher, sports coach, or other relevant adult.
93. The relevant State or Territory legislation should have provisions to make clear that the protected person is a party to the proceeding – this will mitigate any risks of an Order being made without the input of the victim-survivor.
94. Risks in respect of merit are present within any legal proceeding. This is mitigated by the relevant judicial officer who, having received requisite training and consequently holding specialist/relevant knowledge, is able to make appropriate orders, including dismissal of vexatious/unmeritorious proceedings.

Consultation question 16: Should there be any limits on who can be a respondent for a forced marriage civil protections? If so, how would they be defined? How can the risk of victim-survivors being coerced into abandoning orders be addressed?

95. WLSA is supportive of the potential respondents listed in the Consultation Paper, noting that the experience of one victim-survivor can be vastly different to another's, including the network of respondents potentially involved in the prospective or occurred forced marriage.
96. However, to avoid unnecessary parties, requisite legislation could incorporate a list of potential respondents with a ‘catch all’ provision to include parties necessary for the Court to resolve the issue. It is important for the Court to have the power to add and remove parties if necessary. A similar provision exists in the *Family Law Act 1975* (Cth).

Consultation question 17: How can the risk of victim-survivors being coerced into abandoning orders be addressed?

97. In our view, the most effective way to mitigate the risk of victim-survivors being coerced during a court process is to ensure that they have the benefit of independent and specialist legal assistance.
98. WLSA suggests that duty lawyer funding be provided to Women's Legal Services across the country to ensure equitable access by victim-survivors to comparable gender and family violence specialist legal services, noting that WLSA members operate within culturally safe, trauma-informed and client-centred practices.
99. We refer to our comments above in respect of training for all participants in the legal system, including judicial officers, with same to consequently be live to issues of coercion in respect of legal proceedings.
100. WLSA reiterates that victim-survivor agency must be at the forefront of any legal proceedings, where a victim-survivor may chose to abandon legal proceedings as part of a cycle of family violence. In this circumstance, connection with a local Women's Legal Service operating within a socio-legal framework would provide requisite social supports to work through risk factors, including where the victim-survivor chooses to re-enter the same environment.

Consultation question 18: How can the views of victim-survivors, including children, best be sought and incorporated into the process for hearing and issuing civil protections for forced marriage?

101. WLSA suggests that review be given to existing structures within the Family Law system, particularly the functions and reach of Court Child Experts within proceedings before the Federal Circuit and Family Court of Australia.
102. Court Child Experts are specialist counsellors and psychologists with expertise in family violence, children's development, and the impact of trauma – comparable experts could be used to seek the views of victim-survivors, particularly children, in the context of forced marriage civil proceedings.

Consultation question 19: What other supports should be available to people in or at risk of forced marriage, including children, to support them through the civil protection order application process?

103. As noted above, increasing access to legal and wraparound support services is critical to support victim-survivors of domestic and family violence, including forced marriages.
104. It is critical that frontline services are adequately resourced to meet the needs of our community.
105. WLSA has collected national data which indicates that Women's Legal Services will be forced to turn away approximately 52,000 women per year (1,000 per week) from accessing vital legal assistance and support services due to limited resourcing.
106. Many of the women presenting to our services are victim-survivors of domestic, family and sexual violence – if they are unable to access critical services their risks to safety will likely escalate, particularly if they engage in legal processes without access to legal assistance.
107. Overall, specialist Women's Legal Services require urgent funding and budget certainty to ensure that we can continue to provide current legal assistance to victim-survivors of domestic, family and sexual violence including in the context of family law proceedings, as well as significantly uplift each of our services to meet ever-increasing demand for specialist legal assistance services from women in crisis.