

Committee Secretary
House of Representatives Standing Committee on Social Policy and Legal Affairs
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18 July 2024

To the Committee Secretary,

**Re: the inquiry into access to family violence orders
for victim-survivors in the family law system.**

Please accept this document as Lucy's Project's submission to the above-mentioned inquiry.

About Lucy's Project

Lucy's Project is a national charity that aims to improve the safety and wellbeing of people and animals impacted by domestic and family violence. Lucy's Project collaborates and builds partnerships across sectors, advocates for policy, program and legislative changes, undertakes and promotes research, and delivers education for services and workers. Lucy's Project believes that people and animals have a right to safety, and this is incorporated into our vision - Safe Families, Paws and All.

The co-occurrence of animal abuse and domestic and family violence

There is growing recognition that animal abuse and domestic and family violence (DFV) commonly co-occur (Kotzmann, 2022). One of the reasons for this co-occurrence is that perpetrators of DFV may threaten, harm, and kill animals to control and intimidate victim-survivors (Mota-Rojas, 2022; Oosthuizen, 2023). Further, animal abuse can be an indicator of future, frequent, or more severe forms of intimate partner violence (Butler & McDonald, 2024; Toivonen & Backhouse, 2018). When a victim-survivor is unable to take an animal with them or ensure their safety, concern for the animal's wellbeing may become a barrier to help seeking or leaving a violent partner (Ascione et al, 2007; Giesbrecht, 2022).

Lucy's Project addresses the following terms of reference:

1. The risk of an escalation in the aggressive and violent behaviour of the perpetrator and heightened risk to the partner and children during family court proceedings.

As stated above, victim-survivors may be at an increased risk of future, frequent and more severe forms of violence from perpetrators of DFV who inflict animal abuse (Butler & McDonald, 2024; Toivonen & Backhouse, 2018). Furthermore, it is well-established that women are at an increased risk of femicide or of being seriously harmed by their violent partners at the time of separation or shortly thereafter (Toivonen & Backhouse, 2018). To enhance the safety and wellbeing of women and children navigating family court proceedings, it is essential that animal-inclusive risk assessment and safety planning is conducted.

Recommendation 1: Any risk assessment process that is undertaken for women and children during family court proceedings must include questions about violence towards animals in their household. In addition, safety planning for women and children that are subject to family court proceedings must consider the safety of animals in their care.

3. How FVOs could be more accessible for victims of violence going through the family law system, including but not limited to:

(c) the legal and non-legal support services required to promote early identification and response to family violence.

In its definition of family violence, the *Family Violence Act 1975 (Cth)* states that 'intentionally causing death or injury to an animal' is behaviour that 'may constitute' family violence (section 4AB). Moreover, the *National Domestic and Family Violence (NDFV) Bench Book* includes a section on 'animal abuse' which emphasises that perpetrators of DFV may 'exploit [the] emotional bond' that victim-survivors have with their animals to exert control or intimidate (Australian Government, 2023). There is also recognition that victim-survivors may 'rely on family pets for emotional support' (Australian Government, 2023).

It is essential that all legal and non-legal support services provided to victim-survivors to access FVOs recognises and responds to animal abuse as a form of DFV, and provides animal-inclusive support to ensure the safety of victim-survivors and their animals.

Recommendation 2: That all legal and non-legal support services provided to victim-survivors to access FVOs recognises and responds to animal abuse as a form of DFV, and provides animal inclusive support to ensure the safety of victim-survivors and their animals.

4. Any other reform that would make it safer and fairer for victims of violence in the family law system who need the protection of FVOs.

Family violence legislation and family violence orders

It is essential that domestic and family violence legislation in all states and territories recognises threatened and actual acts of animal abuse as a form of domestic and family violence. Tasmania is the only Australian jurisdiction that does not explicitly include animal abuse as a form of family violence in its family violence legislation (Kotzmann et al., 2022).

In New South Wales, the *Crimes (Domestic and Personal Violence) Act 2007* recognises ‘the intersection between animal abuse and domestic violence’ in its objects (section 9). Moreover, the standard orders on Apprehended Domestic Violence Orders include a prohibition on harming animals, as follows:

‘Every apprehended violence order is taken to specify that the defendant is prohibited from doing any of the following—

intentionally or recklessly destroying or damaging any property, or harming an animal, that belongs to, or is in the possession of, the protected person or a person with whom the protected person has a domestic relationship’ (section 36c).

Whilst it is positive that standard Apprehended Domestic Violence Orders in NSW prohibit harm towards animals, this is limited to an animal that belongs to, or is in the possession of, the protected person or a person with whom the protected person has a domestic relationship. In Victoria, the *Family Violence Protection Act 2008* definition of family violence (section 5) states that ‘causing or threatening to cause the death of, or injury to, an animal,

whether or not the animal belongs to the family member to whom the behaviour is directed so as to control, dominate or coerce the family member' may constitute family violence.

Perpetrators of DFV may harm animals who may not belong to, or be in the possession of, the protected person, such as farmed and wild animals. In NSW, the *Crimes (Domestic and Personal Violence) Act 2007* states that 'behaviour that causes death or injury to an animal, or otherwise makes use of an animal to threaten a person' may constitute domestic abuse (section 6A). This appropriately reflects a broader understanding of harm towards animals as a form of DFV.

Recommendation 3: Amendments to Tasmania's *Family Violence Act 2004* to recognise actual and threatened acts of violence against animals as a form of family violence.

Recommendation 4: Amendments to domestic and family violence legislation in all states and territories to recognise the intersection between animal abuse and family violence in the objects of the Acts.

Recommendation 5: Amendments to Family Violence Orders in all states and territories to include a prohibition on harming animals to control, dominate or coerce the protected person or their children, irrespective of the ownership or possession of the animal, as a standard mandatory condition.

In addition, Lucy's Project endorses Recommendation 11 of the submission made by Women's Legal Services Australia to this inquiry, as follows:

"FVO legislation in all states and territories should be amended to explicitly:

- a. recognise animal abuse as a form of family violence in its definition of family/domestic violence, to ensure there is consistency across all states and territories; and**
- b. include an order for the protection of animals in FVOs."**

Animal custody orders

Animal custody orders, otherwise known as pet protection orders, may reduce safety barriers for victim-survivors who have animals in their care. This reform would permit courts to remove animals from the custody of people who perpetrate DFV and make orders as to who should have ‘exclusive possession, custody, care and control’ of the animals whether that person is the legal guardian or not (New South Wales Legislative Council, 2022, p.7234).

In a local or magistrates’ court context, legislation permitting animal custody orders would empower magistrates to make decisions about the custody of animals while considering an application for a Family Violence Order. Importantly, victim-survivors would not be compelled to remain in a home with a violent partner in order to protect their animal companions if there is a system that recognises an animal’s right to safety from DFV. This legislative reform would provide a practical solution for women and children who want to maintain the bond with their animals and keep them safe from abuse.

Over the past 18 years, forty states in the United States of America have implemented Pet Protection Orders, starting with the state of Maine in 2006 (Arkow, 2024).

Recommendation 6: To investigate the feasibility of implementing animal custody orders in all Australian states and territories, as part of FVO proceedings.

In addition, Lucy’s Project endorses Recommendation 12 of the submission made by Women’s Legal Services Australia to this inquiry, as follows:

“The relevant sections of FVO legislation should be amended to empower Courts making FVOs to make orders for the exclusive care, transfer, or determination of ownership of animals, particularly when the animal is in the possession of a perpetrator.

Further consideration and consultation with stakeholders may be required to determine the principles that underpin this power, and any implementation or enforcement issues. For example, consideration should be given to whether such an order would authorise the local council to transfer the registration of the animal in accordance with the order.”

Animal-inclusive domestic and family violence services

Victim-survivors of DFV who have animals in their care may face additional barriers to accessing safety and support. For example, victim-survivors may delay leaving, or do not leave, a violent partner due to concerns for the safety and wellbeing of their animal companions (Ascione et al., 2007; Volant, et al., 2008). An Australian study found that 33% of women in crisis accommodation stated that they had delayed leaving a violent partner due to concerns for the safety and wellbeing of a companion animal in their family (Volant et al., 2008).

Researchers frequently identify a need for victim-survivors to be able to access support services and accommodation that is animal-inclusive (Butler & McDonald, 2024). Furthermore, it is acknowledged that the human-animal bond promotes physical and mental health improvements and assists people to recover after a crisis (Oosthuizen et al., 2023). Therefore, services must be resourced to assist people and animals to seek safety and recovery together. An animal-inclusive DFV framework is essential for increasing the safety and wellbeing of victim-survivors.

Recommendation 7: Additional funding and resources for DFV services to be animal-inclusive so that people and animals are supported to be safe and recover together. This includes emergency, crisis, and transitional housing services for people impacted by DFV.

Recommendation 8: Training and resourcing for DFV, homelessness, community, child and family, health, legal and other services to identify and respond to animal abuse in the context of DFV.

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