



Aboriginal Family Legal Services Queensland

Maruma-li-mari Newsletter

APRIL 2024

ISSUE:01

Message from the CEO



A warm welcome to AFLSQ's very first Quarterly Newsletter. As we bid farewell to the warmer weather of Summer, a new season is upon us and there is a chill in the air. But the colder weather will not stop the AFLSQ team, our team has been out and about with Murgon and Cherbourg communities with further Community Engagement to occur over the coming months, so watch this space for our next newsletter and where AFLSQ have been.

The last three months have been very exciting here at AFLSQ, which has seen AFLSQ provide assistance to one of our sister services in New South Wales, AFLSQ is very excited to have Warra Warra Legal Service on board. We are also excited as we begin servicing Central Queensland as we expand into Emerald and Longreach.

Have a read of what the AFLSQ team got up to!

Kathleen Wincen, CEO

In this Issue

- ✔ **WARRA WARRA LEGAL SERVICE**
- ✔ **COERCIVE CONTROL LEGISLATIVE UPDATES**
- ✔ **AFLSQ MONTHLY RECAP**
- ✔ **AFLSQ HIGHLIGHTS**
- ✔ **UPCOMING NEWS**

Warra Warra Legal Service

Warra Warra Legal Service is a Family Violence Prevention Legal Service situated in Broken Hill, New South Wales. The Warra Warra team are specially trained to meet community needs. Employing lawyers, counsellors, and client support workers to provide holistic wrap around assistance to Aboriginal and Torres Strait Islander people.





Coercive Control Legislative Updates

Overview of the Legislation

The Criminal Law (Coercive Control and Affirmative Consent) and Other Legislation Amendment Bill ('the Bill') 2023 was passed on March 6, 2024, following its introduction in October 2023. The Bill emerged in response to recommendations from the Women's Safety and Justice Taskforce and seeks to offer enhanced protection to victims while ensuring greater accountability for perpetrators. The legislative changes are aimed at addressing coercive control, refining consent laws, and improving legal mechanisms for handling cases of domestic, family, and sexual violence.

Understanding Coercive Control

Coercive control comprises a range of abusive behaviours, including emotional manipulation, psychological intimidation, economic exploitation, isolation, sexual coercion, and cyberstalking. It is characterised by a pattern of conduct aimed at controlling and subjugating the victim, often resulting in significant harm to their physical, emotional, and mental well-being.

Key Provisions of the Legislation:

Criminal Code: Coercive Control

The primary feature of the new laws is the establishment of a distinct criminal offence for coercive control. This offence carries a maximum penalty of 14 years imprisonment and applies to conduct within relationships where there is a course of behaviour intended to coerce or control the victim.

Part 5 Chapter 29A of the Criminal Code includes the insertion of a standalone offence of Coercive Control (section 334C).

The offence of coercive control is considered criminal conduct of an adult where:

- (a) The person is in a domestic relationship with another person (the other person); and
- (b) The person engages in a course of conduct against the other person that consist of domestic violence occurring on more than one occasion; and
- (c) The person intends the course of conduct to coerce or control the other person; and
- (d) The course of conduct would, in all the circumstances, be reasonably likely to cause the other person harm.

For offences under charged under 334C(1)(b) and (c) it is immaterial whether the domestic violence that constituted the course of conduct against the other person was carried out in relation to another person or the property of another person.

For offences charged under 334C(1)(d) it is immaterial whether the course of conduct actually caused harm to the person and if an act of domestic violence that formed part of the course of conduct was unauthorised or unreasonable surveillance or economic abuse of the other person. It is immaterial whether the person was aware of the act.

When hearing matters for coercive control, if the presiding judge or magistrate considers it desirable, they may constitute the court to consider making a restraining order; regardless of whether the person is found guilty or not guilty s 334E.



Coercive Control Legislative Updates (Continued)

Criminal Code: Consent

The previous definition of consent under s 348 has been replaced. The new definition provides that; ***“consent means free and voluntary agreement by a person with the cognitive capacity to make the agreement.”*** The changes to the definition of consent affect the following criminal charges:

- i. S 223 Distributing intimate images
- ii. S 227B Distributing prohibited visual recordings
- iii. S 229A Threats to distribute intimate image or prohibited visual recording

Sections 348B and 348C have been included to define cognitive and mental health impairments where relevant to matters of consent.

Criminal Code: Mental and Cognitive Impairments (re consent)

Section 348B outlines the parameters of **cognitive impairments** concerning consent. It sets out conditions such as intellectual disabilities or developmental disorders that may impact an individual's ability to comprehend the nature and consequences of sexual activity. By defining these impairments, the legislation seeks to ensure that individuals with cognitive disabilities are afforded appropriate protections under the law.

Section 348C addresses **mental health impairments** in the context of consent. It encompasses conditions such as severe depression, anxiety disorders, or psychotic disorders that may affect an individual's decision-making capacity regarding sexual activity. By acknowledging mental health impairments, the legislation aims to safeguard the rights and well-being of individuals facing these challenges.

In addition to addressing coercive control, the legislation also introduces amendments to consent laws to align them with community expectations of equality and respect in sexual relationships. The new affirmative model of consent emphasises the necessity of **freely given** and **voluntary agreement to engage in sexual activity**, with an expanded list of circumstances where consent is deemed absent.

Domestic and Family Violence Protection Act: Protection Orders

The amendment to section 37 provides that **if** the court decides to make a protection order against the respondent, the court **must** consider the appropriate period for which the order is to continue in force.

The amendment to section 47B provides that the court **must** consider making a temporary protection order on adjournment.

Section 113(3) has been amended in relation to the duration of orders. In exceptional circumstances a court may adjourn the application for a protection order and make an order to extend the police protection notice:

- (a) For not more than five business days; or
- (b) If the court is not sitting in the next five business days – until the next anticipated sitting date for court.

For the purposes of section 113, **exceptional circumstances** are considered unforeseen circumstances that cause the operation of the court to be significantly reduced ie natural disaster, severe weather event or major public health event.



Coercive Control Legislative Updates (Continued)

Other Notable Changes

The legislation incorporates various measures to improve legal proceedings related to domestic and sexual violence. These include:

- Introducing jury directions for sexual offence proceedings
- Imposing restrictions on improper questioning in court
- Creating a new offence for aiding a respondent to commit domestic and family violence
- Establishing aggravating factors for domestic violence offenses
- Implementing a court-based perpetrator diversion scheme

The legislative changes also encompass amendments to related acts to better accommodate the complexities of domestic and family dynamics. Notable adjustments include redefining family relationships and informal care relationships under the Domestic and Family Violence Protection Act and Bail Act, as well as clarifying age-related provisions in the Criminal Code to ensure adequate protection for minors.

Recap on the last three months



January was a month for new beginnings. Providing education to the community is important to our organisation. This year we decided a 'School Supply Drive' would be an excellent way to assist the Aboriginal and Torres Strait Islander youth in the community. Moving forward, February was a big month, we organised a seminar to share the story of Brenda Matthews, 'The Last Daughter', providing catering and a chance for the community and organisations to learn.

In February, our Senior Counsellor along with our Paralegal and Volunteer from the Gympie Office attended a cultural tour provided by the Cherbourg Region Aboriginal & Islander Community Controlled Health Service (CRAICCHS).

As for the month of March, team members and our CEO travelled down to Broken Hill to visit and support the Warra-Warra Legal Service (Sister Organisation).

Monthly Highlights



January

'School Supply Drive'

AFLSQ wanted to ensure every child has access to the supplies they need. This was successful through a 'School Supply Drive'. We have been able to provide 12 children with back packs filled with school essentials from pencil kits to insulated lunch boxes!

We have donated to surrounding schools including Lockyer State High School, Nanango's SS and SHS.

February

The Last Daughter Seminar

"The Last Daughter" Seminar- A partnership Conference was organised to share Brenda Matthews' story to create empathy, awareness and understanding for First Nations People. The Goal was to inspire community members and like-minded organisations to discuss Aboriginal people's history and cultures. Brenda's story gives us a chance to learn and reflect.





Recap on the last three months (Continued)



February continued..

Community Engagement in Cherbourg

AFLSQ team members commenced an agency visit and tour with the Cherbourg Regional Aboriginal & Islander Community Controlled Health Service (CRAICCHS), engaging with the community welfare team. What a great opportunity to gain knowledge and understanding throughout the visit!

March

Heading back to Broken Hill

The team at AFLSQ ventured down once again to the Warra-Warra Legal Service situated in Broken Hill, New South Wales. AFLSQ is excited to support Warra-Warra Legal Service to ensure that their doors can stay open and enable the community to continue to receive vital Legal and Non-Legal Services.



Important Dates & Upcoming News



Dates to Remember

1-31 May 2024

Domestic Violence Prevention Month

8 - 9 May 2024

3rd Annual Disrupting & Reducing family Violence Against First Nations Women & Children in Sydney (Featuring Guest Speaker Kathleen Wincen)

21 - 22 May 2024

AFLSQ attends the Community Legal Centres Queensland (CLCQ) Conference in Brisbane

26 May 2024

National Sorry Day

27 May - 3 June 2024

National Reconciliation Week

3 June 2024

Mabo Day

18 -20 June 2024

2nd Annual Public Sector Comms Week Conference in Canberra

Welcome to the team:

Operating from our Gympie office AFLSQ would like to specially welcome to our team:

Amelia Otton - Solicitor

Keren Green - Paralegal

Adrienne (Lee) Thompson - Paralegal

Acknowledgments

AFLSQ would like to say farewell to Tracy, Ronella, and Shereene and wish them all the best with their future endeavours.