

Snapshot of demand and current issues for women on temporary visas who are victims/survivors of family and domestic violence



CENTRE FOR
Women's Safety
and Wellbeing



CENTRE FOR WOMEN'S SAFETY
AND WELLBEING

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Acknowledgements

The Centre for Women's Safety and Wellbeing acknowledges we are located on stolen Whadjuk Noongar land. We support the Uluru Statement from the Heart and call for reparations to be made. We honour Aboriginal people for their continued resistance and resilience, and we pay deep respect to elders of all generations who continue to protect and promote culture and country.

The Centre for Women's Safety and Wellbeing would like to thank all the service providers who contributed to this report. Contributions were thoughtful and considered despite the immense pressures that services are operating under. Thank you for the work you do in contributing to women's safety.

This report is dedicated to all victims/survivors of family and domestic violence on temporary visas.

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Overview

Women on temporary visas experiencing family and domestic violence have been recognised as a particularly marginalised (and so often isolated and particularly at-risk) cohort by women's family and domestic violence services for some time. This is mainly due to the lack of visa pathways available to women experiencing family and domestic violence, the unwieldy processes and requirements to access the family violence provisions (for those who are eligible), the inability for many women on temporary visas to access key government supports due to visa status/non-residency, and lack of culturally appropriate services. Data collection on this cohort of women is also limited.

Notable current research and advocacy efforts to highlight these issues have included:

- **An ANROWS State of knowledge paper in 2015 - *Promoting community-led responses to violence against immigrant and refugee women in metropolitan and regional Australia: The ASPIRE Project***
- ***Temporary migration and family violence: An analysis of victimisation, vulnerability and support*, by Marie Segrave in 2017**
- **Establishment of the National Advocacy Group on Women on Temporary Visas Experiencing Violence, in 2018**
- ***The Path to Nowhere Report: Women on Temporary Visas Experiencing Violence and their Children*, in 2018 by the National Advocacy Group on Women on Temporary Visas Experiencing Violence**
- ***Blueprint for Reform: Removing Barriers to Safety for Victims/Survivors of Domestic and Family Violence who are on Temporary Visas*, in 2019 by the National Advocacy Group on Women on Temporary Visas Experiencing Violence**
- **The position paper, *Women on temporary visas experiencing family violence*, in 2020 by inTouch Multicultural Centre Against Family Violence**
- ***Family violence and temporary visa holders during COVID-19*, in 2020 by Monash Gender and Family Violence Prevention Centre and inTouch Multicultural Centre Against Family Violence**

Governments have made some recent specific commitments towards addressing this issue, such as:

- **In late December 2020, the [Women's Safety Taskforce](#) identified women on temporary visas experiencing family and domestic violence as a priority group in responding to family violence and women's safety.**
- **In April 2021, the Commonwealth Government announced a \$10 million funding boost for visa holders trying to flee family and domestic violence, including:**
 - **\$6.5 million for a 12-month Red Cross pilot program that will provide temporary visa holders escaping violence with up to \$3,000 to help cover accommodation, food, and medical care, as well as casework where the person is not already linked in with a domestic violence service.**
 - **\$3.5 million for nine community and women's legal centres to assist women in accessing migration and legal advice.**
- **In the 2021-22 budget, it was announced that the 12-month pilot project would now be funded for three years.**

However, fundamental systemic issues remain unaddressed.

This report is part of the Centre for Women’s Safety and Wellbeing’s Women’s Safety Data Initiative. This 12-month project is funded through the Commonwealth National Partnership Agreement (NPA) COVID-19 Domestic and Family Violence Responses. The project seeks to make qualitative and quantitative data regarding violence against women, more accessible and to track the impact of the pandemic environment on women and children experiencing family and domestic violence.

This report provides a snapshot into service demand as well as current and emerging issues for women on temporary visas who have been subjected to family and domestic violence. Data for this report was provided by 33 organisations. Data was gathered through a survey, interviews and demand data from Community Legal Western Australia and the Centre for Women’s Safety and Wellbeing.

This report looks at issues that specifically or predominantly impact on women on temporary visas experiencing family and domestic violence. Other issues that impact on all women subjected to family and domestic violence have not been highlighted here. This information was captured in the recently published *Snapshot of current and emerging issues for family and domestic violence service providers*.

Key findings

The key findings of this snapshot are:

- Although the quantity of women on temporary visas reporting family and domestic violence has decreased (according to the data we looked at) in the pandemic environment, the issues and barriers these women face in seeking safety and support, remain.
- Services continue to be concerned about the specific forms of isolation women on temporary visas face.
- The “family violence provisions” under the Migration Regulations 1994, are inaccessible to most women on temporary visas subjected to family and domestic violence and problematic for those who are eligible.
- Governments do not provide enough supports for this cohort of women.
- Women may be deported, while perpetrators are not held accountable for their behaviour.
- Casework for women on temporary visas is more complex- particularly because of the impact of delays or ineligibility to access key supports.
- The issues highlighted in this snapshot are ongoing and despite continued advocacy, remain largely unresolved.

Notes and disclaimers

It is important to note the following:

- This snapshot is qualitative in nature - statistics provided are an indicative representation.
- We use the terms “pre-pandemic environment” / “pre-pandemic context” and “pandemic environment” / “pandemic context” to make a distinction between the two periods of time and any variances noted.

Demand

Tracking demand for services by women on temporary visas experiencing violence is an imperfect exercise. Most data collection initiatives do not track visa status. For example, the Specialist Homelessness Information Platform (SHIP) used by refugees, does not have a data set for visa types.

Also, many mainstream services, organisations, or sectors, may not have a consistent, or formal approach to identifying and/or capturing family and domestic violence in the data. For example, in undertaking this snapshot, the Centre for Women's Safety and Wellbeing requested from Centrelink, 3 years of data with respect to women on temporary visas with a family and domestic violence indicator, who applied for, were granted, or whose applications were rejected, for the Special Benefit payment, in Western Australia.¹ Centrelink was unable to provide this data due to not having a reliably specific family and domestic violence indicator for Special Benefit customers.

There are also limitations with respect to the data we were able to collect and therefore it should be noted that the below data are indicative only.

Community legal centre data

Western Australia's peak body for community legal centres (CLCs), Community Legal Western Australia, provided data regarding immigration legal assistance provided by CLCs to service users with a family and domestic violence indicator.

Legal assistance for individuals, provided by CLCs are broken down into "Discrete Assistance" and "Representation Services".

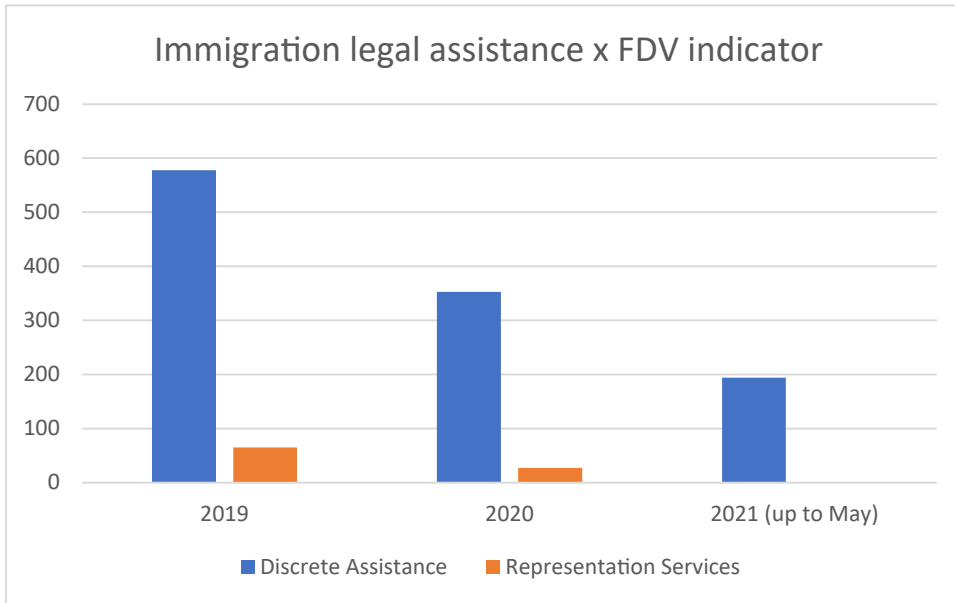
Discrete Assistance is the provision of unbundled, discrete, legal and non-legal services such as legal information, legal advice, referral, a discrete legal task (i.e., drafting a will, sending a letter, advocating on behalf of the service user without taking carriage of the matter), duty lawyer representation, or non-legal support (i.e., counselling).

Representation Services include dispute resolution, court/tribunal services and other representation (i.e., where the matter does not proceed to court/tribunal or is not required to appear before a court/tribunal). They are bundled services and occur where a service provider takes carriage of a matter in an ongoing, representative capacity.

Annual totals for immigration legal assistance where the service user has a family and domestic violence indicator

The graph below sets out the numbers of Discrete Assistance and Representation Services provided per annum in relation to immigration matters where the service user has a family and domestic violence indicator. The graph expresses higher (met) demand per annum in the pre-pandemic environment; a significant drop in 2020; followed by what will presumably be an increase from the previous year (as the data for 2021 is only provided up to May).

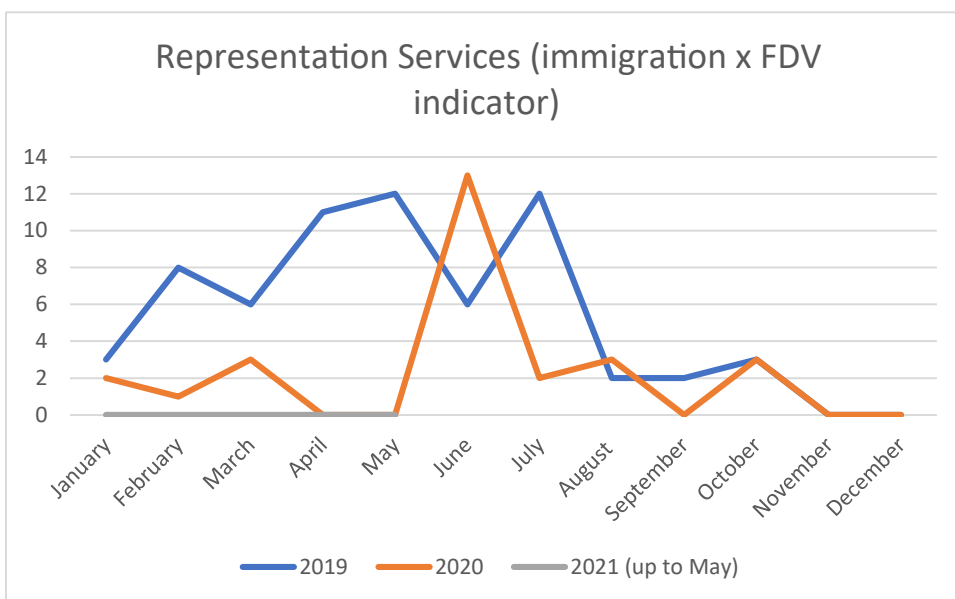
¹ Special Benefit is a discretionary income support payment for people in hardship who are unable to earn a sufficient livelihood and not eligible for any other social security or allowance. Certain temporary visa sub-classes qualify for this payment, as well as Australian-born/permanent resident babies.



Monthly totals for Representation Services regarding immigration matters where the service user has a family and domestic violence indicator

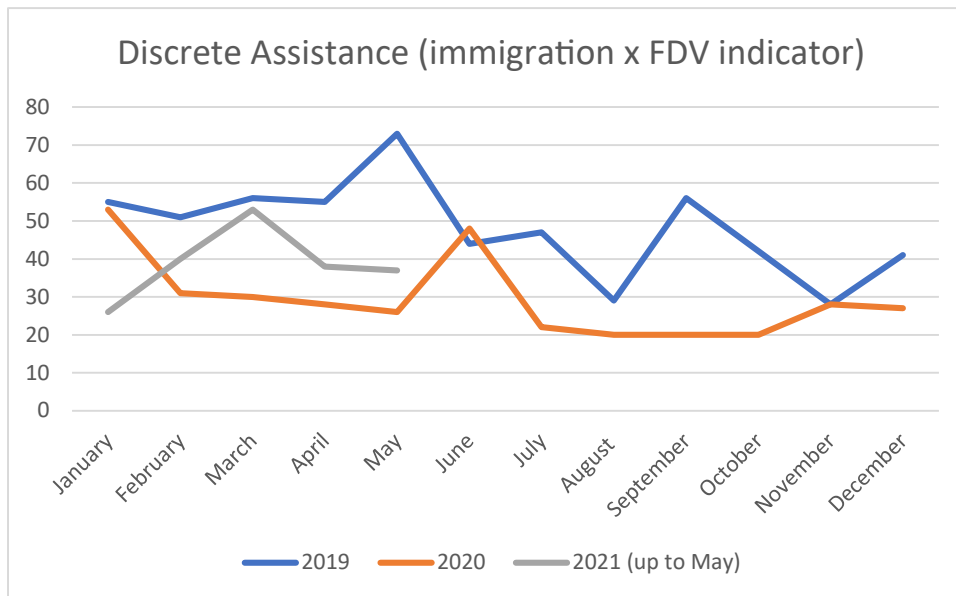
The graph below sets out two and a half years of monthly data for Representation Services (when a service provider takes carriage of a matter in an ongoing, representative capacity) regarding immigration matters where the service user has a family and domestic violence indicator.

Despite some fluctuations, the graph seemingly conveys an overall downward trend in met legal need in this area.



Monthly totals for Discrete Assistance regarding immigration matters where the service user has a family and domestic violence indicator

The below graph sets out Discrete Assistance (unbundled, discrete legal and non-legal services) provided with respect to immigration law, where the service user had a family and domestic violence indicator. Like the previous graph demonstrates, an overall downward trend into the pandemic environment is observable. However, 2021 data to date suggest an upward trend from the previous year.



Data constraints

With respect to the above data, it is important to note the following constraints:

- The graphs displayed only reflect data from CLCs who use the national Community Legal Assistance Service System (CLASS) database (approximately 80% of CLCs in WA) and provide legal assistance in the specialist area of immigration law.
- The data provided represent the quantum of legal assistance services that were provided and do not necessarily represent the number of service users that were assisted.
- The data provided is not gender disaggregated.

Women Without Income program demand data

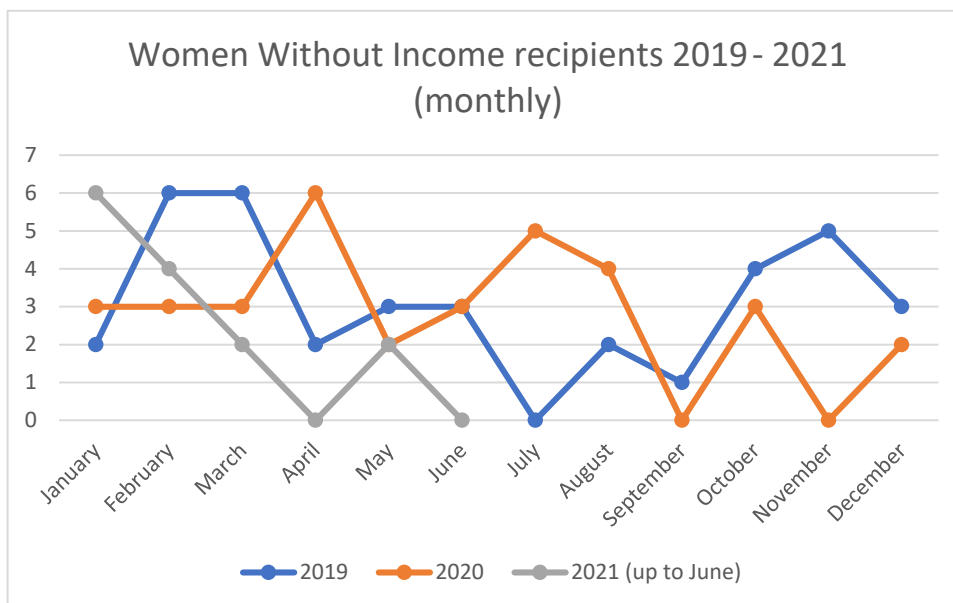
Women Without Income is a financial assistance program delivered by the Centre for Women's Safety and Wellbeing (formerly the Women's Council or Domestic and Family Violence Services) since 2018. The program provides ongoing weekly financial assistance to women in refuge on temporary visas who are ineligible for government assistance / have no income.

The level of financial support provided through Women Without Income is minimal, ranging from \$80 - \$150 a week depending on the number of child dependents in the woman's care. Payments are used to assist with necessities such as food, medical and school costs.

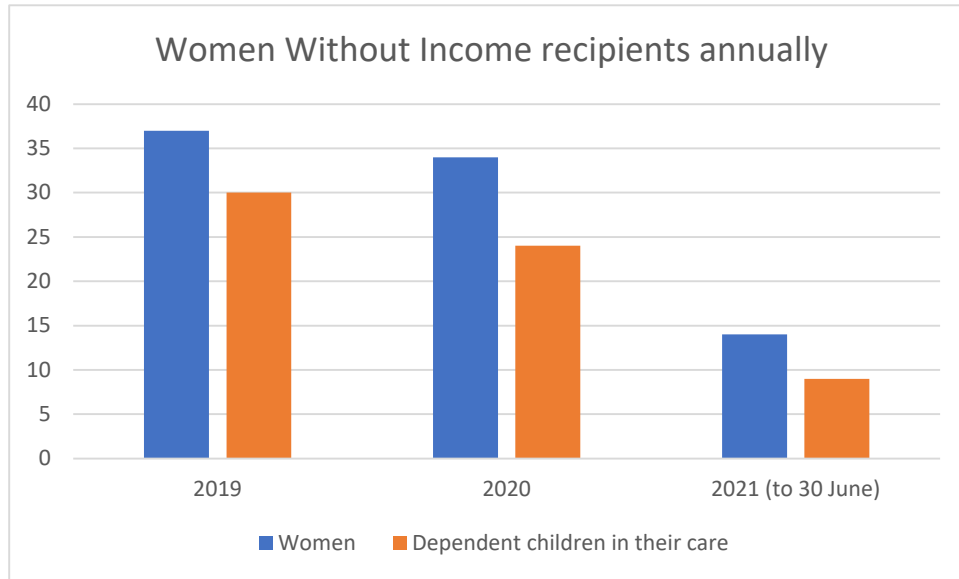
The program has been running on small grants since 2018 and is currently funded by the Department of Communities.

Number of women and children assisted

The graph below asserts the monthly number of new recipients of Women Without Income assistance over 2.5 years. Despite obvious spikes, the downward trend in 2020 is observable in comparison to the pre-pandemic environment of 2019. The start of a presumable downward trend repeating in 2021 is also evident.



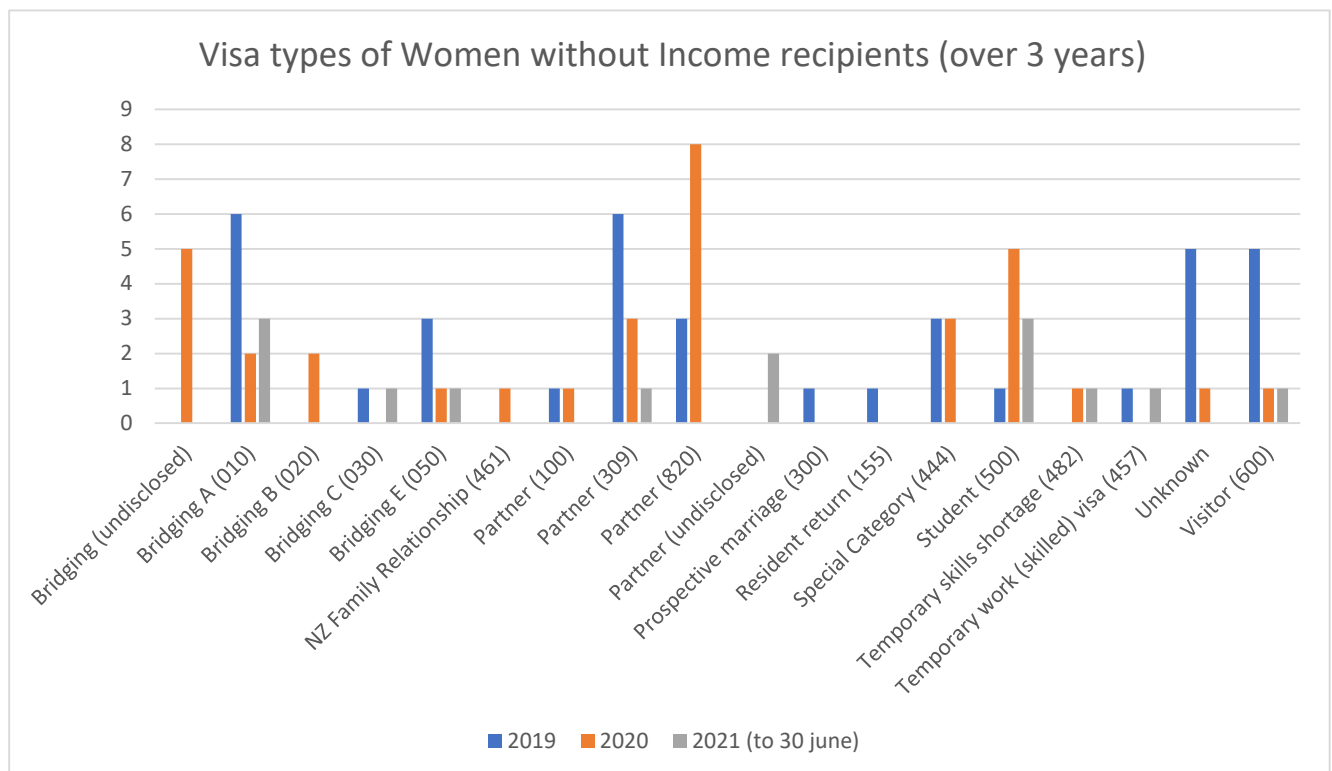
The graph below which sets out the number of women and their children who received assistance through Women Without Income per annum over 2.5 years, further asserts this trend.



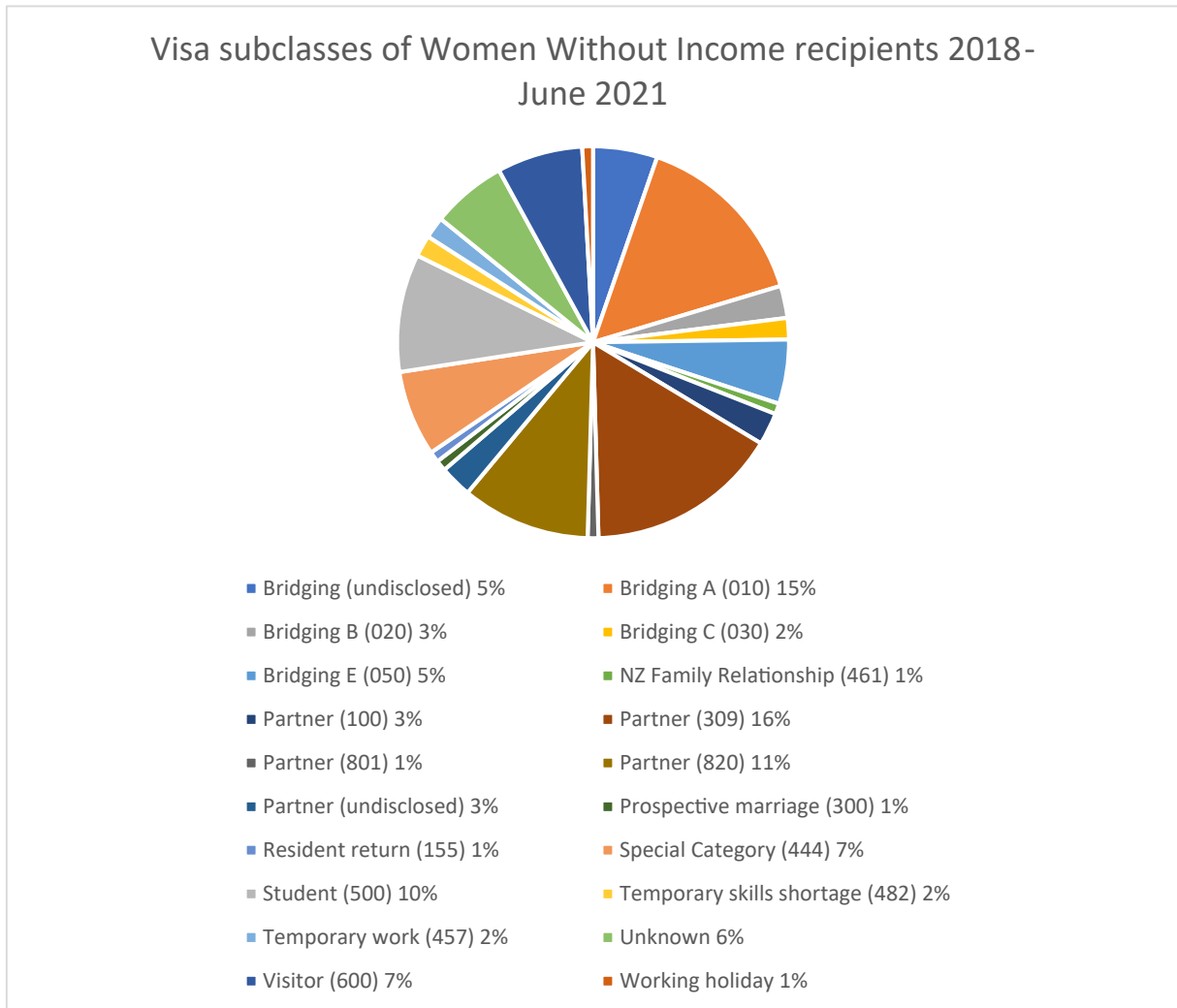
Visa subclasses

The following graph depicts the amount of various visa subclasses per year held by women who were provided financial assistance through the Women Without Income program.

In the pre-pandemic environment of 2019, the 309 Partner visa (which is applied for off-shore) was the most common sub-class, while in the pandemic environment of 2020, the most common subclass was the 820 Partner visa (which is applied for onshore). Unsurprisingly, Visitor visas were more common in the pre-pandemic environment.

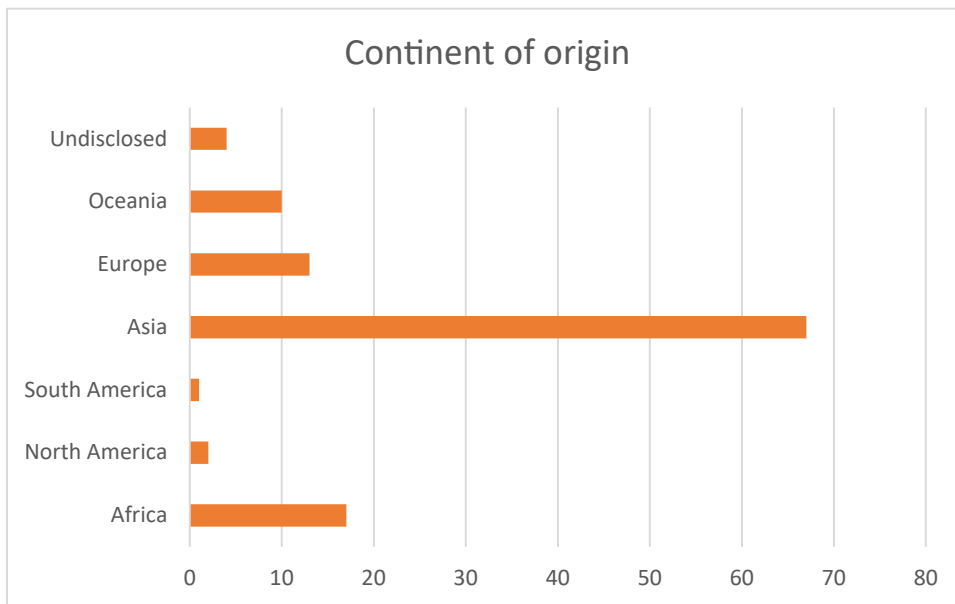


The graph below highlights the most and least commonly held visa subclasses by women who received financial assistance through the Women Without Income program overall. Partner (820 and 309) visas, Student (500) visas and Bridging A (010) visas were the most common, while Partner (801) visas, Resident return (155) visas, New Zealand family relationship (461) visas, and Prospective marriage (300) visas, were the least common.

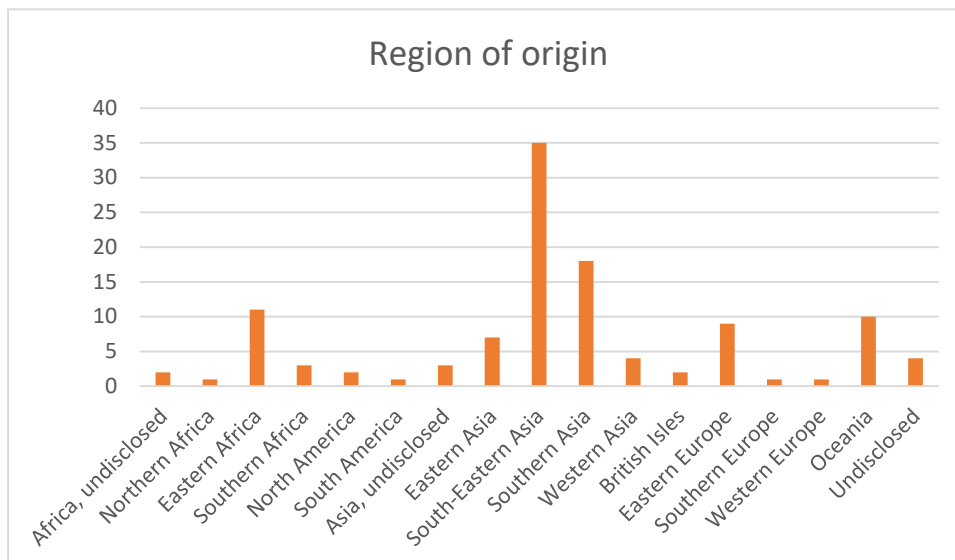


Originating location

Women Without Income recipients primarily originate from Asian countries.



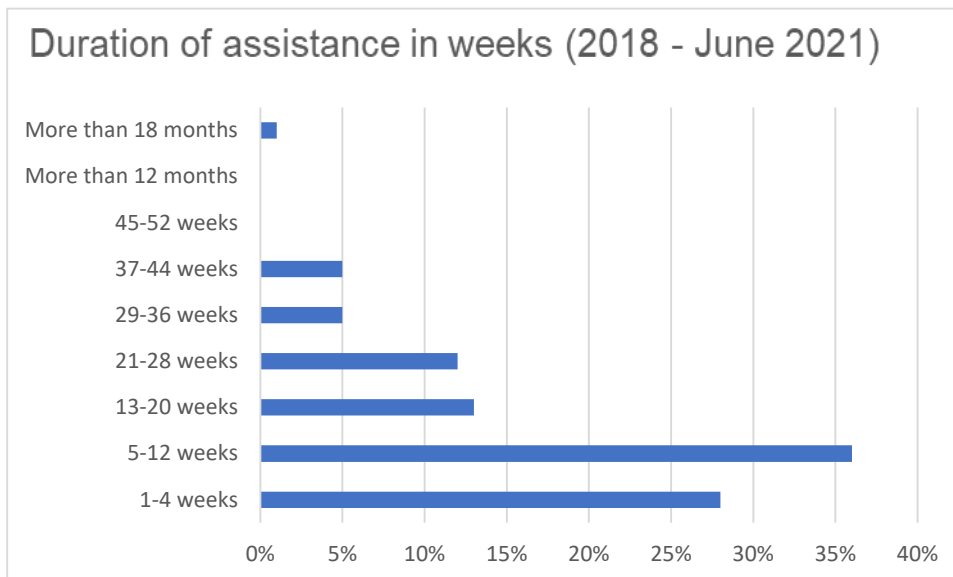
India is the most common country of origin, however South-Eastern Asia is the most common region of origin.



Duration of assistance

The following table sets out what percentage of Women Without Income recipients received assistance for what duration of time.

It can be observed that it is not typical to receive assistance for longer than a year, and that between 5 – 12 weeks is the most common length of time to be receiving assistance.



Women are no longer eligible for assistance when they have either departed the refuge or are receiving an income. Reasons for departing the refuge can include returning to the country of origin, returning to the perpetrator, or moving out with friends. Receiving an income may be a result of obtaining employment, or being able to access Centrelink benefits and does not necessarily mean the woman has left the refuge.

Data constraints

With respect to the above data, it is important to note the following constraints:

- Not all women on temporary visas in refuge are accessing the program, as some services have brokerage available for this client group.
- The length of assistance is not necessarily indicative of how long the woman has resided in the refuge for.
- The data only captures women in refuge. Women who are not residing in a refuge are ineligible for the program.

Approximation of women on temporary visas in refuge as of 30 June, 2021

At the end of the financial year, the Centre for Women's Safety and Wellbeing conducted an audit of women on temporary visas in refuge accommodation. As at 30 June, 2021, there were approximately 33 women on temporary visas with 28 children collectively in their care, residing in refuges in Western Australia.

| Area | Number of women | Number of dependent children |
|-----------------|-----------------|------------------------------|
| Metropolitan WA | 27 | 18 |
| Regional WA | 6 | 10 |
| Total | 33 | 28 |

Data Constraints

The following limitations to the above data should be noted:

- The audit took place over the period of a week and there is a possibility that some women may have been missed or counted twice if they moved.
- A few refuges were not contactable during this time or chose not to provide data.



Current issues for women on temporary visas subjected to family and domestic violence and services that support them

Emerging and ongoing issues as articulated by service providers are detailed below.

Isolation

Service providers expressed concern with respect to the isolation experienced by women on temporary visas affected by family and domestic violence.

It was also identified that women on temporary visas may be impacted by language and cultural barriers to service accessibility, and uncertainty regarding their visa status.

Services also reported that women on temporary visas who are victims of family and domestic violence are often isolated from family, culture, religion and lack social supports:

“Often these women have limited or no supports as they have no family in Australia and have had little space from abuse to make friends and connections. We hear many stories of women linking with a local cultural group or church etc for support and while many women tell us these are great sources of support, women also too often report experiences of members of these groups/ services also disempowering them.” - WOMEN’S FAMILY AND DOMESTIC VIOLENCE SERVICE

Language barriers were also flagged as contributing to the isolation experienced by women on temporary visas who are victims of family and domestic violence:

“Language barriers mean women are often told by their perpetrator the rules in Australia are constraining on women having employment/income/rights/etc. Which means they have limited understanding of their rights in Australia, including available supports.” - WOMEN’S FAMILY AND DOMESTIC VIOLENCE SERVICE

“These women often do not know what services are available to them for information and support. They also may come from a country where their rights were limited or services were scarce and have no knowledge of Australian services. Their [abusive] partners have used the visa to spend a considerable amount of time convincing women that they have no rights which, after hearing it enough times, becomes very believable. It takes time to lessen the voice of their partner to allow women some space for action.” - WOMEN’S FAMILY AND DOMESTIC VIOLENCE SERVICE

Fear of deportation was also considered a large contributor to the isolation experienced by women on temporary visas who are victims of family and domestic violence:

“The fear of deportation is so strong that it includes fear of the authorities (Police, Immigration, Child Protection). We get lots of referrals from the police. The police are often called by the neighbours and they might deny the abuse because they are scared of what will happen.” - MULTICULTURAL WOMEN’S FAMILY AND DOMESTIC VIOLENCE SERVICE

“It is often only after escalation to police involvement that they are referred for help or seek assistance.” - WOMEN’S FAMILY AND DOMESTIC VIOLENCE SERVICE

“They may be unaware of what supports are available, or fearful to reach out as they may be sent home, back to their country of origin, or become homeless. Many women face great shame and embarrassment or persecution for leaving their partner, if they go back to their home country.”

- MULTICULTURAL WOMEN’S FAMILY AND DOMESTIC VIOLENCE SERVICE

Many service providers noted that although the fear of deportation may be warranted – particularly if the woman is not on a partner visa, perpetrators often use the visa as a tool for coercion, giving the woman false information about her visa and her rights in Australia. This is somewhat demonstrated below:

OBSERVATION

We recently conducted part of an audit of ‘advice only’ files, that did not progress to casework/representation, where we looked at the visa sub class of the clients.

One third of clients from matters where we provided advice only, were still in the relationship. The large majority of these were referred by FDV support services to get advice to make an informed choice about any decision to leave their relationship and part of their safety planning.

- Approximately 50% of those still in the relationship had access to the family violence provisions under the Partner visa framework.
- Approximately 25% were already permanent residents, but either did not know their ability to leave a violent relationship and not have their visa cancelled by the perpetrator, wanted to confirm this was correct, or did not know they were a permanent resident in the first place.
- Approximately 25% had no access to the family violence provisions as they were not on a visa which provided them with a pathway and were not assessed as having an alternative visa pathway to apply for that we assist with, for example a Protection visa.

We are still auditing the files of clients who were out of the relationship and sought advice which did not progress to our service providing casework/representation, for any trends.

- SPECIALIST COMMUNITY LEGAL CENTRE

CASE STUDY

Janika was in an arranged marriage. She has been referred to a multicultural domestic violence service by the police. She disclosed that she had been experiencing physical, social, financial, verbal and psychological abuse perpetrated by her husband and her in-laws (his parents and siblings). They were controlling all aspects of her life, including her clothing, food and worshipping.

Janika was not allowed to make friends or talk to her family back home. Her husband was monitoring her phone and texts.

He physically abused her and refused to take her to the doctor for treatment. Her husband would go everywhere with her, even to medical appointments, so she did not get the chance to ask anyone for help. He forced her to lie to the hospital staff and the doctor about her injuries. On an occasion when a doctor was able to ask about domestic violence, she was not able to disclose because of her fear of her husband.

Her husband forced her to pray in front of him and forced her to wear religious garments she did not want to wear. He was extremely jealous and did not let her watch men on the TV, to the point that he would close her eyes with his hands.

He used her visa status as a tool of control and threatened to divorce her and/or take her child from her and send the child back home to her parents. He had previously twice coerced her into having abortions she did not want.

Janika was able to access the family violence provisions and is now a permanent resident, safe and living independently. However, she was without an income or a home for quite some time. She is now receiving Centrelink Benefit and living in public housing with her child. She is being supported by the service to undertake an English language course and also to find employment to support herself and her child.

Services highlighted the need for culturally appropriate support, access to counselling, parenting support and wrap around services to address issues of isolation in conjunction with key needs.



Inaccessible family violence provisions

The family violence provisions are only accessible to specific Partner visa (or related Bridging visa) holders

The “family violence provisions” are special provisions under the *Migration Regulations 1994*, that provide victims of family violence with a permanent visa pathway. However, they are only accessible to victims who have specific Partner visas/ in the following scenarios: ²

- Where a person has married their spouse while the holder of a Prospective Marriage visa (subclass 300) and applied for a Partner visa (subclass 820/801)
- Where a person is awaiting the outcome their application for a temporary Partner visa (subclass 820)
- Where a person has been granted a temporary Partner visa (subclass 820)
- Where the person has entered Australia as the holder of a provisional Partner visa (subclass 309)

Women on temporary visas who do not have alternative visa pathways available to them must continue to meet their visa conditions if they wish to remain in Australia. Depending on the visa type, this could mean, for example, that if they do not continue to attend classes/pass their units (something they may struggle to accomplish as a result of suffering and harm from domestic violence) they are likely to not comply with their visa conditions. In the case where they are a secondary visa holder on their partner’s visa and they leave the relationship (and are therefore no longer a “spouse” of the primary visa holder), it means they are at risk of having their visa cancelled. This leaves very limited time (and options) for women to make significant decisions about their visa status.

The lack of alternative visa pathways for this cohort of women is a barrier to leaving a violent partner and puts women and children at further risk of harm.

“When a woman has had to flee the relationship due to the violent partner and there are ongoing Family Court matters, the worry of being separated from her children due to not having the right to remain in Australia, is significant.” - SPECIALIST COMMUNITY LEGAL CENTRE

“Women on student visas and women who are dependents on student visas (where their partner is the student) have nowhere to go. There are often consequences for them if they return to their home country, but they aren’t eligible for the family violence provisions and therefore have a significant fear of deportation driving their decision-making.” - MULTICULTURAL WOMEN’S FAMILY AND DOMESTIC VIOLENCE SERVICE

“We’ve had some clients who’ve been forced to work while their partner studies. If she is a dependent on a student visa, then she doesn’t have restrictions on the number of hours per week she can work. If she gets pregnant, he will demand they send the child back home, so she can continue to work. She won’t see her child for 3-4 years until she returns home.” - MULTICULTURAL WOMEN’S FAMILY AND DOMESTIC VIOLENCE SERVICE

² See <https://immi.homeaffairs.gov.au/visas/family-violence-and-your-visa>

DISPARITY IN APPROACH BETWEEN PARTNER VISA TYPES

When an offshore Partner visa sub class 309/100 is applied for, the family violence provisions /child exemption provisions only apply to the 100 visa, not the 309 visa. This is different to the onshore 820/801 when the provisions apply to both subclasses, so family and domestic violence victims who are bridging visa holders waiting for their 820 visa to be granted can access the provisions.

Presumably, the reason for the 309 to not have access to the provisions/exemptions is because the applicant must be offshore when the visa is granted and mostly sponsors travel overseas to visit their partner rather than the partner coming to Australia. However due to COVID and border restrictions preventing people travelling and long processing times, there has been a change to state that people who have applied for a 309/100 visa and waiting for it to be granted can now be granted the visa from within Australia. Thereby allowing applicants to travel to Australia on a visitor visa and remain here whilst waiting for their 309 visa to be processed.

Bewilderingly, there has been no allowance for family violence provisions, which means if a woman is on a visitor visa waiting for her 309 to be granted, and she has been subjected to family and domestic violence, then she cannot access the family violence provisions to apply for her 100. She would need to remain in the relationship, wait for the 309 to be granted, THEN leave and claim the 100 under the family violence provisions.

- SPECIALIST COMMUNITY LEGAL CENTRE

Women are judged by the perpetrator's actions rather than their own intentions and good faith

Services were clear that even their clients on temporary visas who are eligible for the family violence provisions struggle to access them.

Generally, an applicant can be granted a permanent partner visa two years after the application is lodged. The family violence provisions are one of very few exemptions from this waiting period and are intended to prevent women from remaining with violent perpetrators due to fears of deportation.

An assessment for exemption consists of two tiers. First, there is an assessment of 'genuineness' of the relationship that looks at factors such as the financial aspects of the relationship, the nature of the household, the social aspects of the relationship and the nature of the person's commitment to the relationship.³ If satisfied, then an assessment progresses to consideration of the relevant exemption.

Demonstrating a "genuine relationship" which presumes contributions, respect and support from both parties of the relationship, in the context of family and domestic violence (which inherently involves an exploitation of power) can be difficult.

³ As per regulation [1.15A](#) (if a spouse) or [1.09A](#) (if a de-facto) of the *Migration Regulations 1994* (Cth)

“Women fleeing violence in general, may struggle to collect sufficient documentation demonstrating joint financial contributions, shared bills, etc, but if the woman is culturally and linguistically diverse, it can add a whole other realm of barriers to accessing such documentation - particularly if there are language and literacy barriers.” - WOMEN’S FAMILY AND DOMESTIC VIOLENCE SERVICE

“Women who are subjected to severe violence and control are often unable to demonstrate genuineness, as the factors assessed are based on respectful relationships where the power is shared- which is contrary to the very nature of domestic violence. Women who demonstrate early help seeking behaviors, will also find it difficult to demonstrate a genuine relationship, when they will effectively be perceived as not having been in the relationship long enough for it to be genuine, even if they entered the relationship and the country in good faith.” - SPECIALIST COMMUNITY LEGAL CENTRE

“Asking clients to detail “the good parts” of their relationship, to prove the relationship was “genuine” is completely at odds with statements they might be simultaneously making to improve their safety- to the police, family court, child protection, etc, in regards to the violence they have been subjected to.” - SPECIALIST COMMUNITY LEGAL CENTRE

Instead of being assessed on their own intentions and whether they married/partnered in good faith (like in the U.S.), women are held accountable for the actions of their perpetrators through these unreasonable evidence requirements. ⁴

Short timeframes

Short timeframes were another major concern of service providers. As per the constraints described above, women eligible for the family violence provisions will often find it difficult to demonstrate a “genuine” relationship, in the context of domestic violence. On top of this, services say the short timeframes provided are unacceptable and not trauma informed.

Instead of being assessed on their own intentions and whether they married/partnered in good faith (like in the U.S.), women are held accountable for the actions of their perpetrators through these unreasonable evidence requirements.

OBSERVATION

“Home Affairs may provide a client with an ‘invitation to comment’ on the change of their relationship status within days of the relationship ending. They are provided with 28 days to respond and request the processing of their visa under a relevant exemption. They may then be requested to provide ‘further information’ in support of their assessment of a ‘genuine’ relationship within 28 days. Home Affairs may not issue the initial ‘invitation to comment’ or may combine this with a request for genuineness documentation. The Humanitarian Group has experienced inconsistent decision making when it comes to requests for extension of time. Sometimes requests for extension of time are refused or a further 7 days may be provided. Other times a further 28 days is granted without issue.”

- THE HUMANITARIAN GROUP’S SUBMISSION TO THE PARLIAMENTARY INQUIRY INTO FAMILY, DOMESTIC AND SEXUAL VIOLENCE, 2020

⁴ See <https://immi.homeaffairs.gov.au/visas/family-violence-and-your-visa>

“One month or even two, might seem like plenty of time, but it’s really not when you factor in:

- all the wait-times for each service, of which the client will need multiple;
- the fact that her immigration matter, isn’t her only pressing legal matter- there can be family law, criminal, child protection and restraining order matters, all needing her attention;
- how long these legal appointments take- especially if there are language barriers and an interpreter is required; they might need multiple appointments and it’s not very much time for someone experiencing trauma, who doesn’t speak English to make an informed decision that will have a significant impact on their life;
- many of our clients have or know limited information about their visa and do not have copies of the paperwork, which means we need to put in a Freedom of Information request to obtain her papers; and
- legal issues, are not her only problem; she doesn’t have access to Medicare, an income, she’s not eligible for housing, she may be feeling very isolated and completely overwhelmed and enforcing stringent timeframes simply adds to the trauma she has already endured.”

- WOMEN’S FAMILY AND DOMESTIC VIOLENCE SERVICE

Once genuineness has been assessed, then the relevant exemption can be assessed, of which there are three: where the visa holder has been subjected to family violence from the sponsor (the family violence provisions); where there is a child of the relationship; and where the sponsor has died.⁵

If applying for the family violence provisions, the applicant then needs to demonstrate that family violence was perpetrated against them/their family members while in the relationship using judicial or non-judicial evidence (reports and statutory declarations from third party officials/professionals).

Victims who have children from the relationship can choose between accessing the family violence provisions or the “child exemption”.

“The child exemption pathway is the preferred option for victims of family and domestic violence when applying for a permanent partner visa under an exemption (if the option is available to them), as it does not require another extra step of providing evidence of being a victim of family and domestic violence, and also the processing time is shorter.” - SPECIALIST COMMUNITY LEGAL CENTRE

“Navigating some of the services available to clients and understanding where to begin can be completely overwhelming. It can be incredibly challenging to navigate on their own, which is where support services become so crucial. Wait times are always a barrier. Their needs for information and advice and/or commencing a process with immigration, all take time. On a backdrop of already being exhausted from being subjected to abuse, these lengthy and arduous processes (such as all of the ‘evidence’ needed to support a domestic violence claim with immigration can see women too exhausted to manage it all.” - WOMEN’S FAMILY AND DOMESTIC VIOLENCE SERVICE

⁵ The Humanitarian Group, [Submission to Parliamentary Inquiry into Family, Domestic, and Sexual Violence](#) (2020).

Long processing times

Another grave concern of service providers was the lengthy processing times for visa and residency applications. In Australia, the family violence provisions process usually takes over a year and the original partner visa approval often takes even longer than the prescribed two years, which pushes more women to need the family violence provisions.⁶

Depending on the visa type, a woman may not be eligible for many government supports while awaiting her outcome.

CASE STUDY

Fitri is on a bridging visa while her Protection visa application is afoot. During this time she meets and commences a relationship with Robbie, an Australian citizen. Fitri and Robbie have a two-year relationship and during this time Robbie becomes increasingly violent. Robbie is physically abusive and also engages in stalking and surveilling behaviours. He only permits Fitri to make purchases with her debit card, so he can track where she goes and what she spends. He tracks her through her phone either by accessing her accounts, or spyware to monitor her activities. When Fitri becomes pregnant the physical abuse escalates further and when she is heavily pregnant, Fitri leaves after a serious assault.

After Fitri gives birth she is referred to a women's refuge. Fitri has no access to Centrelink or Medicare on her visa and Robbie is not listed on her child's birth certificate, so she is not entitled to any benefits as she is not considered an Australian Citizen.

Fitri's protection application is rejected and she is required to leave the country within one month with her infant. The fear of the consequences of returning home cause significant distress for Fitri and a severe decline in her mental health.

Fitri is supported to appeal this decision to the Administrative Appeals Tribunal. This appeal is accepted and Fitri is granted an extension of her Bridging visa while she awaits an outcome on the appeal.

Fitri and her child are both on the Bridging visa and unable to access any Centrelink payments or income. As a result, it is unlikely Fitri will be able to access any housing options other than crisis-accommodation while she is awaiting her appeal to be processed, which may be a 2-3 year wait.

"The process for permanent residency is very long, but timeframes are quite tight. However, waitlists for services are massive. If she doesn't respond in time, her visa is cancelled. She likely has no money and doesn't speak English, so will need supports and legal advice. The appeal tribunal is \$3,000 and takes about 2 years. Appeal to the Minister can take another 2 years, so she may be hanging for 6 years. She can't work, she can't go to uni- it's a very long time to wait for an outcome. There needs to be quicker decisions from Home Affairs and a seamless pathway to government support." - **MULTICULTURAL WOMEN'S FAMILY AND DOMESTIC VIOLENCE SERVICE**

⁶ Jelenic, A.B., "Australia's Family Violence Provisions in Migration Law: A Comparative Study." *Flinders Law Journal*, 21 (2020): 259 – 294.

Lack of government support and opportunity

Family and domestic violence services were adamant about the need for government supports for women on temporary visas who have been subjected to family and domestic violence. Many of the social services in Australia are accessible only to permanent residents of Australia (with some exceptions for specific visa types) and not accessible to the majority of women on temporary visas who have been subjected to family and domestic violence.

Financial assistance and healthcare

Although some women on temporary visas may have access to Centrelink and Medicare, services were clear that not nearly enough women have access to these vital government supports and that it is not enough support for those who do.

“There is an urgent need for sustainable, long-term financial assistance. The Special Benefit payment is not sufficient to live on and it’s not accessible to most women on temporary visas who have been subjected to FDV. There also needs to be an emergency financial support program, that is not just a short-term COVID pilot, as this issue long-existed before the pandemic.”

- SPECIALIST COMMUNITY LEGAL CENTRE

“She’s not allowed to work. She’s not eligible for Centrelink. She’s unable to access housing as she’s ineligible for state housing and has no income for private rental. If her children are Australian citizens, she might have income from Centrelink tax A&B. There is very limited access to financial support which creates a barrier in becoming more independent.” - WOMEN’S FAMILY AND DOMESTIC VIOLENCE SERVICE

“These clients face barriers to receiving healthcare due to not holding a Medicare card, which means extra costs they can’t afford. Even when they do have Medicare, it just covers the basics and without ANY income to supplement necessary medical expenses, the situation can be dire, and fears and distress are high.” - MULTICULTURAL WOMEN’S FAMILY AND DOMESTIC VIOLENCE SERVICE



CASE STUDY

Nancy originally arrived in Australia with her husband and children as political asylum seekers over 10 years ago.

Nancy's husband was abusive and they separated. The family were denied asylum status in Australia and all attempts to appeal to the Department of Immigration and the Refugee Review Tribunal have been to date unsuccessful. During this time, Nancy's husband collaborated with a media outlet in regard to the issues that drove them to seek asylum, which exposed Nancy's identity and put her life at risk.

A few years after the separation, Nancy married her current husband, an Australian citizen. Nancy was granted a bridging visa to allow her to legally apply for a Partner visa. However, the domestic violence Nancy's current husband was perpetrating, escalated forcing her to flee from her husband's home and into the women's refuge. Her current husband never applied for the spousal visa.

Nancy's Ministerial appeal has been declined and her bridging visa will expire soon.

Nancy has been in the refuge for over a year now. Being a short-term emergency accommodation service (maximum stay is 21 days) with a limited number of rooms, the refuge is not equipped to offer longer term accommodation to people experiencing homelessness or those experiencing complex immigration issues. Nancy has received adequate support in the matters pertaining to domestic violence and ordinarily she would have been discharged from the refuge.

As it currently stands her extended stay at the refuge is preventing other women in crisis from accessing much needed short-term accommodation. However, Nancy has no income, is not eligible for housing and has no familial or social networks.

Employment , education and childcare

Some women are not permitted to work, or study, but otherwise would. Some services conveyed that it is difficult for women with children to maintain work due to childcare needs- particularly in the regions where childcare is limited/harder to access.

“These women are often entirely dependent on NGOs for support- they've gone from being reliant on the perpetrator to being reliant on a service and are just hanging in limbo, often for years as they can't work, or study, have no housing. Basically, they have limited agency and can't really “settle” as they await an immigration outcome. It stifles their independence and abilities to heal and rebuild their lives.”

“Job and study assistance, free childcare, assistance to gain work, ability to get their qualifications recognised (for example, nurses doing cleaning jobs) are all requirements for women on temporary visas without income who have been subjected to FDV.”

CASE STUDY

Shanina was referred by the Police to a refuge and has an FVRO in place against the perpetrator. She is on a bridging visa with no access to Centrelink. She lives in a regional town with limited childcare options and has to give up work because of the cost of childcare in conjunction with only being able to access casual work hours. Women Without Income payments are her only source of income allowing her to provide food and other basics for her child.

Housing

Housing was also a huge issue identified by service providers as it currently affects most of their clients whether on a temporary visa or a resident of Australia.

“There are often financial barriers for these women. There are often children to consider and women may be more likely to stay with an abusive partner when they are financially reliant, are living in their partner’s house, etc., which increases the risk to them and their children.”

- WOMEN’S FAMILY AND DOMESTIC VIOLENCE SERVICE

“We were unable to find our client any crisis accommodation. Everywhere is full. There is also a gap for culturally appropriate crisis accommodation.”

- MULTICULTURAL WOMEN’S FAMILY AND DOMESTIC VIOLENCE SERVICE

“This woman and her several children have been accommodated with us for years due to risk and no way of securing her own accommodation.”

- WOMEN’S FAMILY AND DOMESTIC VIOLENCE SERVICE

“There needs to be some sort of accommodation pathway specifically tailored to this demographic of women. Accommodation of any kind is particularly scarce right now- this cohort desperately needs culturally appropriate emergency and transitional accommodation and long-term housing pathways.”

- WOMEN’S FAMILY AND DOMESTIC VIOLENCE SERVICE

CASE STUDY

Lima is on a bridging visa awaiting appeal of her visa application rejection. She has been staying in the women’s refuge for the last 5 months with her newborn child. She has no income and is unable to obtain housing. She is moving into a shared private rental with friends to support her while seeking employment.

Comprehensive Legal Support

Service after service highlighted the importance of timely, free legal assistance to help women on temporary visas understand their rights and to make informed decisions about their lives- not only in relation to immigration law, but also family law, child protection and Family Violence Restraining Orders. It was important to services that legal assistance came from providers who were domestic violence informed.

Access to free comprehensive legal assistance with respect to immigration was of particularly high concern to services, with many noting the legal and processing costs as prohibitive. Limited community legal centres practice in this specialist area and funding constraints translate into limited capacity to ensure all women needing comprehensive legal assistance are provided with it. Regional services expressed particular difficulties with accessing prompt services for their clients.

“We have 2 foreign nationals in the refuge at present with no income or family support. The issue is obtaining appropriate legal support here in [remote town]. They are linked in with appropriate legal supports in Perth, but capacity is limited and there is no local accessible support or information for these women.” - FAMILY AND DOMESTIC VIOLENCE SERVICE

Lack of domestic violence-informed interpreters

Many services noted a lack of free, appropriately trained interpreters.

“There is a lack of female, domestic violence informed interpreters. As a specialist area, interpreters need to be properly trained so their own biases and assumptions don't interfere with the translation.” - WOMEN'S FAMILY AND DOMESTIC VIOLENCE SERVICE

“There is a lack of security/privacy/screening with the interpreters provided. For example, we had a [Nationality] woman go to court and was provided with an interpreter that happened to be a friend of the perpetrator. This was only disclosed after the hearing.” - WOMEN'S FAMILY AND DOMESTIC VIOLENCE SERVICE

There also seemed to be a disparity in free interpreting services, with some services saying they paid for interpreters, and other services reporting interpreters are free.

Translating and Interpreting Service (TIS), provide a free interpreting service for non-government organisations. However, their website notes that the service should be provided to people who have a Medicare card and cannot be used for immigration advice, which would greatly limit accessibility.⁷

⁷ <https://www.tisnational.gov.au/en/Agencies/Charges-and-free-services/About-the-Free-Interpreting-Service/Free-Interpreting-Service-for-non-government-organisations>

Lack of perpetrator accountability

Perpetrator accountability was also concerning to many service providers.

Some services expressly noted an improvement from police:

“We have noticed a greater awareness about these issues. There are more bail conditions now- not just ending on and FVRO; they are charging the perpetrators. Several years ago, this wasn’t the case.” - MULTICULTURAL WOMEN’S FAMILY AND DOMESTIC SERVICE

Other services were explicit about perpetrators not being held accountable as fathers and women being held accountable for men’s behaviours:

“It doesn’t make sense when the police attend an incident and ask her to go to the refuge when she’s got children, while he stays in the house, instead of removing him.” - WOMEN’S FAMILY AND DOMESTIC SERVICE

“Throughout this whole thing- the woman is completely disempowered, but we are always looking at her to provide the nurturing role to the family, while he’s out doing what he wants. She’s attending the child protection meetings, ensuring she’s a good parent, making sure the children go to school, making sure they’ve had a bath, are clothed and have something to eat. How is he being held accountable?” - MULTICULTURAL WOMEN’S FAMILY AND DOMESTIC SERVICE

“We had a client who was experiencing quite severe physical as well as coercive and controlling violence. She had a FVRO in place, but then later said that she made up everything she had reported, losing her credibility. He stole her money and is applying for permanent residency, with no ramifications. There is no accountability for these men.” - MULTICULTURAL WOMEN’S FAMILY AND DOMESTIC SERVICE

Case complexity for women on temporary visas without income

As per the many reasons set out above, services conveyed that women on temporary visas experience significant delays in being able to access services, face increased mental distress, often stay in refuge for longer, require more intensive support/ casework hours and financial support.

“Whilst case complexity is not uncommon from all of those who access our services, there are significant delays for women from CALD backgrounds in being able to access services. Often, this is due to legal and visa statuses. With significant proportions of CALD families accessing our services, the case complexity increases through lack of access to appropriate government income streams or access to other income for these families; affordable housing; childcare; legal support for visa and Family Court issues; interpreters and timeframes to ensure the client understand all processes; understanding of individual rights within an Australian context.” - WOMEN’S FAMILY AND DOMESTIC SERVICE

“We spend substantial time in case management to ensure the client understands the support being offered and options available to them to make informed decisions and we provide significant financial investment via food and essential items; medical costs; childcare where essential; waiving the rent; other essential costs, because these women cannot access government income streams.” - WOMEN’S FAMILY AND DOMESTIC SERVICE

All family and domestic violence services who assist women on temporary visas reported providing financial and in-kind support in some way, whether through food hampers and donations, emergency relief, brokerage money, rent reduction or waiving, clothing, food vouchers, education supplies, hygiene needs, relocation costs, phones and other emergency needs.

Some services had an emergency relief program or brokerage available, others did not. Some services also relied on external support from community groups and corporate sponsors. Some services provided financial support possibly beyond their scope because there were no other options.

“Emergency funds for every organisation would be helpful, so we don’t have to send our clients to yet another organisation to get immediate financial relief.” - MULTICULTURAL WOMEN’S FAMILY AND DOMESTIC SERVICE

We asked accommodation and support services if they could provide an indication of the financial support provided by their service.

CASE EXAMPLES OF FINANCIAL CONTRIBUTIONS FROM SERVICES

Mariska

Mariska has been staying at a 21-day crisis accommodation service in a remote town for approximately 16 weeks so far. She has no income and is completely reliant on the refuge for financial support. The \$100/week rent has been waived by the service, she has access to free meals and she is receiving \$80 weekly payments from the Women Without Income program. The service has paid for her car to be towed from the perpetrator’s property, as well as repairs, costing a total of \$2,300. Her new bridging visa permits her to work some hours, so she is no longer eligible for the Women Without Income payments and the refuge must continue to waive rent and provide other financial supports.

Xixi

Xixi has been staying at a suburban refuge for approximately 18 weeks thus far. Her rent of \$100/week and \$100 bond have been waived. The service has been providing her with \$100 cash per week, plus grocery vouchers, totalling \$2,756.88

Lilian

Lilian has been residing at a regional crisis accommodation service for 7 months so far. She has been accessing the Women Without Income payments totalling \$1,220 as well as a total of \$2,728 from the refuge for groceries and essentials for her and her baby.

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***Note that all the above weekly payments are significantly less than the woman would get if she were receiving Special Benefit payment (which is still a particularly low payment approximating \$310 a week for a single woman with no child.⁸**

⁸ <https://www.servicesaustralia.gov.au/individuals/services/centrelink/special-benefit/how-much-you-can-get>

Due to the very nature of the issues women who are victims of family and domestic violence on temporary visas face, such as isolation from family and social networks, fear of deportation, cultural and language barriers, limited to no access to government supports, etc., services may work with these clients for longer periods of time.

“Our staff have built knowledge and experience working with clients from CALD backgrounds over the past 2-3 years with the numbers of this cohort accessing our service increasing. We ensure the most appropriate support and positive outcomes are achieved for these clients and hence work with the CALD women in excess of 24 months following their initial crisis through to the Outreach services and the intensive support required. On average staff work with these clients for 3 times longer than clients from English speaking backgrounds” - WOMEN’S FAMILY AND DOMESTIC SERVICE

Issues are not old and have been continually raised

Services were overwhelmingly clear that although in some instances, the issues have been exacerbated in the pandemic environment, all of the issues are ongoing and have been repeatedly raised with decision makers.

“This issue has been continually highlighted in our progress reports and with relevant case studies.” - WOMEN’S FAMILY AND DOMESTIC SERVICE

“We have highlighted these issues previously to the Minister for the Prevention of Family and Domestic Violence.” - WOMEN’S FAMILY AND DOMESTIC SERVICE





CENTRE FOR
Women's Safety
and Wellbeing

Preventing violence,
promoting health,
advancing gender equality

The Centre for Women's Safety and Wellbeing is the leading voice for women and children affected by gender-based violence in Western Australia.