



LEGAL TECH FOR JUSTICE
Enhancing access to justice
in family violence legal services

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EXECUTIVE SUMMARY

Violence against women is recognised as one of the most urgent global human rights issues, impacting the safety and health of victim/survivors and their children (World Health Organization, 2021). The scale of this abuse is widespread, with global prevalence data gathered by the World Health Organisation (2021) showing that almost one in three women (30%) 15 years of age or older have experienced physical and/or sexual violence from an intimate male partner and/or sexual violence from someone other than an intimate partner at least once in their lifetime since the age of 15. This statistic is slightly higher in Australia, with 31.1% of women subjected to physical and/or sexual violence by a man they know (Australian Bureau of Statistics, 2017). This violence is sometimes lethal with, on average, one woman in a week murdered by her current or former male partner (ANROWS, 2021).

In 2015, the Victorian State Government established Australia's first Royal Commission into Family Violence after several family violence-related deaths in Victoria (State of Victoria, 2015). The role of the Royal Commission was to prevent domestic and family violence (DFV), improve support for victim/survivors and hold perpetrators to account. The Commission made 227 recommendations to reduce the impact of DFV and prevent this violence from occurring in the first place, investing \$354 million into reforming the Victorian DFV sector (State of Victoria, 2016).

The Victorian State Government has directed funding into the higher education sector alongside these commitments. In response to the impact of the coronavirus pandemic on higher education, the State Government developed the Victorian Higher Education State Investment Fund (VHESIF). In May 2021, Monash University was awarded a VHESIF grant by the Victorian Government. The grant comprises two elements:

- the [Safe and Equal @ Work Program](#), at the Monash Gender and Family Violence Prevention Centre (MGFVPC); and
- the Access to Justice, Family Violence and Technology Research Program in the Australian Centre for Justice Innovation and Monash Law Clinics (the Legal Tech for Justice Project).

This Project Status report is focused on the Legal Tech for Justice Project. This project aims to enhance understanding of how remote technologies can be used to promote access to justice for women and others experiencing DFV who are navigating the justice process.

This is a particularly timely project considering the emerging issues of technology in the perpetration of DFV and the recognition that technology can be used to promote women's human rights. The UN Sustainable Development Goals identify technology as an essential tool for promoting gender equality

and empowerment. Section 5.b of the UN Sustainable Development Goals outlines the importance of technology for women's human rights, stating that the goal is to: *Enhance the use of enabling technology, in particular information and communications technology, to promote the empowerment of women* (United Nations, 2015, p. 15).

The *Report of the Special Rapporteur on Violence Against Women, Its Causes and Consequences on Online Violence Against Women and Girls from a Human Rights Perspective*, also highlights the role that technology must play in women's human rights, in particular their rights to live a life free from violence and abuse:

Even though the core international human rights instruments, including those on women's rights, were drafted before the advent of ICT, they provide a global and dynamic set of rights and obligations with transformative potential, and have a key role to play in the promotion and protection of fundamental human rights, including a woman's rights to live a life free from violence, to freedom of expression, to privacy, to have access to information shared through ICT, and other rights (Šimonović, 2018, p. 5)

This framing is important to consider when examining how technology can be utilised to facilitate access to justice for victim/survivors of DFV and as such can be instrumental in playing a part in the promotion and protection of women's human rights.

This Project Status report will focus on two main areas:

- **Part one** examines how remote technology is currently being applied by legal services in Victoria. Interviews with seven legal professionals provide insights into not only how technology is enhancing access to justice for victim/survivors of family and domestic violence, but also critical feedback on the limitations of such interventions. They also offer suggestions for future innovations based on their practice knowledge.
- **Part two** builds on the practice insights of legal practitioners by drawing together existing and emergent practices of technology-based innovations that could enhance access to justice for victim/survivors of family and domestic violence and remote Victorians.

Appendix 1 provides comprehensive details of technological innovations used in providing legal services. The benefits and limitations are also summarised.

We conclude the report by bringing together the findings as an evidence base for the next steps in the project.

Key findings

Overall, this Project Status report shows that:

- Legal services in Victoria are currently utilising numerous forms of technology to assist DFV victim/survivors to access justice.
- Technology used in Victorian legal services can enable DFV victim/survivors to seek legal assistance, apply for FVIOs, attend court remotely, collect evidence for FVIO and breaches to the order.
- There are currently significant limitations to the technological innovations offered to DFV victim/survivors, including that they are largely not developed in a trauma-informed¹ way. This results in them being difficult for victim/survivors to fully utilise.
- The development of technological innovations in the DFV area need to be centred on victim/survivor's experiences and be led by their expertise.

¹ A trauma-informed approach includes four main elements. These are: 1) Acknowledging and recognising that trauma exists and has an impact; 2) Understanding how trauma affects individuals, families, or systems it occurs within; 3) Responding with policies and practices that integrate knowledge of trauma; and 4) Making efforts to ensure that individuals do not experience re-traumatisation (Center for Substance Abuse Treatment, 2014).

Part one: How remote technology is being used by legal services in Victoria with victim/survivors of DFV

1.1 Introduction

In the last few decades, developments in technology have significantly changed the ways people communicate and engage in business processes. The legal profession, as with other professions, has increasingly recognised the importance of using technologies to maximise efficiency and productivity and to improve communication (Wang, 2019). A report by the Law Society of New South Wales (LSNSW, 2017) on the future of law and innovation notes that legal practices are increasingly interested in and engaging with legal technology.² Similarly, a report undertaken by the Networked Society Institute of the University of Melbourne states:

Technology is now core to the practice of law for most lawyers with widespread use of email, online legal research and electronic court filing. Process-oriented technologies are gradually increasing with online legal information, simple document assembly, e-discovery, workflow and project management (Bennett et al., 2018, p. 21).

The COVID-19 global public health crisis³ and the restrictions and lockdowns that came with it placed further pressure on the legal sector to embrace technological change, with many court systems and legal service providers needing to pivot to remote access technology (Sourdin & Zeleznikow, 2020).⁴ Measures were implemented towards paperless digital courtrooms that allow judges, lawyers, and litigants ‘to work more effectively in a secure online and virtual environment’ (LexisNexis, 2021). For example, the Supreme Court of

² See also the Law Society of Western Australia’ report (2017:6), which observes that technology is currently ‘one of the greatest issues facing the legal profession’, and that those who can adapt best to technological changes are the ones who will thrive in the future legal profession.

³ The World Health Organization declared the coronavirus disease (COVID-19) as a pandemic on 11 March 2020 following its alarming levels of spread and severity (WHO, 2020).

⁴ See Sourdin and Zeleznikow (2020) for an overview of Court responses to covid around the world. The policy brief ‘Access to justice and the COVID-19 pandemic’, co-authored by the OECD and the Law & Justice Foundation of NSW, includes a linked ‘Compendium of Country Innovations’ which gathers good practice examples to showcase how justice systems from across the globe came up with innovative solutions to maintain service provision during lockdowns (OECD & Law & Justice Foundation of NSW, 2020). Further, the global law firm Norton Rose Fulbright provides a brief snapshot of developments in judicial processes affected by covid-19 pandemic, in major jurisdictions, in its website at

<https://www.nortonrosefulbright.com/en-za/knowledge/publications/bbfeb594/covid-19-and-the-global-approach-to-further-court-proceedings-hearings>

the United Kingdom conducted its first ever remote hearing in March 2020 (Mahleka, 2021). The Federal Court of Australia issued a series of Special Measures Information Note (SMIN), setting out arrangements for the operation of the Court during the COVID-19 outbreak.⁵ The SMINs include measures aimed at ensuring the health and safety of the community, including minimising in person attendance on Court premises, physical distancing, and allowing the Chief Justice to determine whether appeals or Full Court hearings will be conducted in person, electronically, or by a combination of the two.

However, while there is a rich body of literature exploring the impact of technological changes on the legal profession and on the justice system in general (Sourdin, 2015; Gowder, 2018; Bell, 2019; Surden, 2019; Wang, 2019; Sourdin & Zeleznikow, 2020) there is considerably less attention paid on the impact of technology on access to justice for disadvantaged groups, particularly for victims/survivors of DFV.

1.2 Methods

To provide insights into how technology is currently being used to enhance access to justice for victim/survivors of DFV, interviews were conducted with seven legal professionals in Victoria. These interviews were up to one hour in duration, and the questions centred on their experience of using technology-based innovations aimed at improving access to justice for victim/survivors of DFV. Professionals were also asked about their views on how COVID-19 changed the way that technology was used, and any suggestions for how technology should be used in DFV in the future. Ethics approval for the interviews was granted from Monash University Human Research Ethics Committee on 30 November 2021 (Project ID: 31016).

1.2.1 Participants

The seven legal practitioners interviewed had a variety of experience in providing DFV and are all involved in the Monash Law Clinic (MLC). MLC is a community legal service that is a fully funded and accredited legal service that operates like any community legal service but is unique insofar as its staff are employed by the University, and it is a teaching facility. Across the seven practitioners their experience ranged from several years' experience up to 40 years. All practitioners had backgrounds in providing legal services to DFV victim/survivors.

⁵ The Special Measures Information Notes may be found at <https://www.fedcourt.gov.au/covid19/remote-hearings>

1.3 Findings

Overall, most participants had limited experience using technological innovations developed specifically for DFV victim/survivors. However, the breadth of professional experience in the DFV sector enabled insights into what technology could be helpful, and the limitations with digital tools that are currently available.

1.3.1 Experience in using technological innovations for DFV victim/survivors

While all lawyers that were interviewed had experience in using technology in their work, only a few had used purpose-built technology for DFV victim/survivors. Interviewee four has used the Family Violence Intervention Order (FVIO) online application form. She explained that since COVID-19 the entire process has gone online which has made it easier for people to obtain these orders. Clients are also able to vary or extend orders at online court hearings. However, interviewee four feels that the ease of this process has also allowed people to abuse it, such as perpetrators also cross-applying for orders.

Interviewee five has used various apps that were specifically developed for DFV victim/survivors, such as evidence collection apps and parenting communication apps. Interviewee one has experience with various forms of technology-based innovations that were designed to assist victim/survivors, including apps with quick exit functionality, apps that enable victim/survivors to keep a diary of violence and safety watches. However, she felt that victim/survivors do not often use these technologies as they do not consider how traumatised victim/survivors can be. Interviewee one said: 'victims are already in crisis mode – expecting them to use technologies is a lot'.

Interviewee four is in the process of developing a virtual court program with Orange Door (Orange Door is a 'one-stop shop' for people subjected to DFV. They offer an array of services for DFV victim/survivors, including legal, housing, counselling, clothing and food). This will allow victim/survivors and affected family members to appear in court remotely – they do not need to be physically inside the courtroom. Clients will use a computer at the Orange Door centre in Dandenong. Lawyers will give advice to clients via video chat, and clients will then attend court via Webex – all from the Orange Door centre. This will prevent the need for clients to attend court in person and avoid situations where clients do not have access to technology at home.

In summary, technology that the participants had used regarding access to justice for victim/survivors of DFV were:

- Apps with quick exit functionality
- Apps to record evidence of DFV – e.g., [Arc](#)

Apps with directories of DFV resources/services – e.g., [Daisy](#); [Aurora](#)

- Court websites (e.g., with information re: FVIOs) – e.g., [Magistrates' Court](#)
- [Safety watches](#)
- Justice Connect [self-help form](#)
- Parenting communication apps
- Online mediation platforms
- Computer hubs allowing for remote court attendance – e.g., [Orange Door](#))
- Online FVIO application
- Magistrates' Court tool – lawyers, police, and court to consolidate all relevant information on DFV matters on a centralised platform, allowing all parties to access this information without needing to contact each other.

1.3.2 Challenges with technology used with victim/survivors of DFV

Interviewees discussed the challenges that they have experienced in previous and current workplaces where technology has been used with victim/survivors of DFV. This included:

- Lack of access to technology
- Technology-facilitated abuse
- Assumptions about languages spoken
- Lack of understanding of the importance of in person connection

Overall, participants felt that the technological innovations used in DFV were not well researched on the specific needs of victim/survivors and were not developed in a trauma-informed and survivor-led⁶ process.

⁶ The principle of 'survivor-led' or 'survivor-determined' processes and practices have been part of the grassroots feminist response to DFV since the 1970s (Nichols, 2012). Research shows that survivor-led approaches, such as collaborative safety planning, encouraging self-determination, involving women in decision-making and believing their accounts of violence, lead to better outcomes (e.g. better mental health, increased safety, and follow through with prosecution) for women and their children (Goodman et al., 2016).

1.3.2.1 Lack of access to technology

Several of the participants noted that within the use of technological innovations in DFV there was an inherent assumption that victim/survivors had access to technology. Many of their clients could not access computers and were living in temporary and emergency housing. Interviewee three provided an example of how a client needed to provide a digital signature but only had a mobile phone, so this was difficult.

1.3.2.2 Technology-facilitated abuse

Participants felt that there was often a lack of awareness that many victim/survivors of DFV are abused and monitored through technology, and that there were little safeguards built into technology used to prevent this from happening. Interviewee five said that any technological innovation needed to be mindful that victim/survivors could access the resources without leaving a trace, such as computer history or cookies, as perpetrators would often track their technology use. Similarly, interviewee one felt that there was not enough understanding of how technology can be used by DFV perpetrators and that victim/survivors may not be able to use technology, such as filling in online forms, quickly, therefore could be easily monitored by the perpetrator. Interviewee six cautioned that perpetrators will always find new ways to control victim/survivors, and that it was '...important to ensure that as technologies develop, safety features also develop in line with new forms of control'.

1.3.2.3 Assumption about languages spoken

The lawyers interviewed mentioned that many of the technological innovations were in English, therefore were often inaccessible to victim/survivors who did not speak English as their main language. Interviewee three noted that she had a client that needed to apply for a FVIO but did not speak English therefore could not complete the online application form. Interviewee three engaged an interpreter and had a phone conference to take instructions from the victim/survivor. The online application was then completed on the client's behalf.

1.3.2.4 Lack of understanding about the importance of in-person connection

As DFV victim/survivors are often highly traumatised, participants felt that many technological innovations did not have what they felt was one of the most important elements of working with this client group - in-person connection. Interviewee four felt that remote communication, such as using the phone, did not allow you to observe body language. This lack of observation impeded her ability to gain a full picture of the client's situation, which in turn may mean that her client was not getting the exact help they needed. Interviewee four said: 'Remote communication leads to a loss of human connection, which is particularly vital given that family violence matters are so emotional'. Likewise, interviewee seven felt that:

... no technological interface is as good as face-to-face meetings, which allow the practitioner to observe non-verbal cues, etc. Reliance on technology may mean the practitioner does not have the full picture, and this may have adverse implications for the client.

1.3.3 COVID-19 and technology utilised in DFV

All the participants noted that during COVID-19 lockdowns, DFV has increased. Interviewee one said that victim/survivors were finding it increasingly difficult to access technology/online resources because perpetrators were at home with them. Prior to COVID-19, victim/survivors were able to surreptitiously access legal services (e.g., victim/survivors could visit hospitals with the perpetrator, and nurses could take victim/survivors to secretly see legal advisers in other rooms) but that during COVID-19 lockdowns there was an overreliance on technology. As noted above, this did not consider issues with:

- Accessibility
- Technological literacy
- Language barriers

Interviewee one highlighted that victim/survivors often crave in-person connection with lawyers, and lawyers can better connect with their clients when they meet in-person. Likewise, interviewee two felt that the lack of

human contact made it difficult to pick up subtleties with people's body language which can hamper the establishment of the relationship with victim/survivors. She said '...technology must assist, not override, the human aspect'. However, interviewee two thought the shift to online court proceedings also meant that victim/survivors did not need to physically attend Court, which in DFV matters was often beneficial.

Several participants mentioned that during COVID-19 lockdowns they were able to provide more inclusive services to those in regional and remote Victoria. Interviewee two felt that there were significant benefits to the use of technology during COVID-19 lockdowns, which meant that they were able to reach people who may not have been accessible in person such as people in rural Victoria. Interviewee three noted that prior to COVID-19 most of their clients were based within their catchment area. However, as many other community legal centres closed during COVID-19 lockdowns, they were able to take more clients from regional areas, including at least one interstate client. Interviewee five commented that they also extended their catchment area during lockdowns, and even had one international client.

1.3.4 Views on how technology could be used to enhance access to justice for victim/survivors of DFV

Interviewee one felt that before technology is utilised for access to justice, research should be conducted to first identify what the barriers are for victim/survivors, and then how technology can help overcome these barriers. This process should be survivor-led, as well as being trauma-informed. Interviewee one said:

Technology could be endlessly beneficial – but is likely to be endlessly detrimental if not built in a manner that is accessible to victims. It must be informed by the experiences of victims and the expertise of experts in this space.

Interviewee one suggested that when exploring the uses of technology that the focus should also be put on perpetrators, and how technology may benefit services such as men's behaviour programs. Interviewee one said: 'I'm not aware of any men's behaviour programs being offered online, that could be a viable alternative and would help clear existing backlogs'.

Interviewee two felt that technology needs to be part of a range of options available to victim/survivors rather than replace services completely. And that services needed to work on any existing shortcomings of the support they provided, before adding technology into the mix. Interviewee two said: 'I'm not sure that technology can be seen in isolation from the whole range of other factors that are relevant to what people need'. Interviewee two also felt that technology could be a double-edge sword, with those victim/survivors who are able to use and access technology finding benefits in the innovations, but for those who cannot access technology it can be of enormous detriment.

Likewise, interviewee three emphasised that use of and access to online services and technology replicate the same inequalities in society, and that there are many people who are not able to utilise such innovations. She said:

It is not an equal system when not everyone can access the technology, and a victim of family violence may have to leave a family home and may not have access to Wi-Fi, to a home computer or a laptop. In that case, there could be a real disadvantage there in even trying to access the help. I do know, however, that if people are properly linked to services – that could be social workers or charitable organisations – that they may be able to make the technology available to victims of family violence. But from what I have seen, a particularly vulnerable person who may be rendered homeless and every day has struggles... their priorities may not necessarily turn to accessing technology and they may be left behind.

Interviewee five felt that there were opportunities in the virtual reality space for innovations for victim/survivors of DFV. She felt that there could be various walkthrough scenarios for lawyers and DFV clients, where victim/survivors and practitioners create scripts for both lawyers and victim/survivors. This could include walkthroughs for victim/survivors on how to navigate a court building, how to access court services (duty lawyers, support workers, etc.) and what to expect when you attend court. For practitioners this could include how to work with remote clients, children experiencing DFV, as well as giving lawyers a better understanding of what it feels like to be a victim/survivor of DFV. She felt this was particularly important given the impacts of COVID-19 as new practitioners have had limited exposure to victim survivors, and this has resulted in a lack of understanding of the nuance of DFV matters.

1.4 Summary

In summary, the seven interviews with legal professionals provide essential insights into how technology is currently being utilised by legal services in Victoria. There is a high level of experience in using technology in general to provide legal services, however, there is less application of specifically designed technology to assist victim/survivors of DFV. Participants detailed the benefits of technology, such as providing remote services to victim/survivors which meant that they did not need to physically attend court. They were also able to provide services to victim/survivors from regional areas, particularly during COVID-19 lockdowns. However, there were significant limitations noted by the practitioners in the current use of technology in providing legal services to victim/survivors of DFV. In general, the participants felt that there is a lack of understanding into how DFV impacts victim/survivors and the barriers they face when accessing justice and that this is reflected in the kinds of technology currently available. Considering that technology is recognised as playing an essential role in the protection and promotion of women’s human rights, it is vital that any technological innovations in the DFV area need to be developed in a way that is centred on victim/survivors experiences and be led by their expertise.

Part two: Technology-based innovations for enhancing access to justice for victim/survivors of family and domestic violence and remote Victorians

2.1 Introduction

As Part One of this Project Status report has shown, the use of technology is part of the daily practice of many legal practitioners and how they provide access to their legal services. There is a substantial body of literature exploring how technology can improve access to justice (Cabral et al., 2012; Zeleznikow, 2017; Bell, 2019; The Engine Room, 2019; Toohey, Moore, Dart, & Toohey, 2019; ILAG, 2021). The Engine Room, an international organisation committed to helping activists and organisations around the world use technology for social change, summarises some of the arguments propounded by those pushing for the use of technology in the legal sector:

To its proponents, technology offers a more efficient means of providing legal services to a wider range of people. Specifically, they argue, technology offers the potential to expand legal advice providers' geographic reach; allow people to help themselves more effectively; and reduce costs related to hiring lawyers and specialist providers. Legal information presented in a way that ordinary people can understand, and through readily accessible channels, also has the potential to level the playing field between legal professionals and others — and thus reduce inequities in access to justice (The Engine Room 2019, p. 8)

Indeed, technology has a significant potential to contribute to improving access to justice for a wide range of people. However, to be able to fully understand how technology can accomplish this, it is crucial to first clarify what 'access to justice' means, and for whom.

2.2 Access to justice

A review of available literature on 'access to justice' reveals that there is no generally accepted understanding of the concept (Sackville, 2002).⁷ It has been described loosely as 'a promise that all who need the assistance of the

⁷ According to Justice Sackville, the ideal embodied in the 'access to justice' concept embraces the proposition that 'each person should have effective means of protecting his or her rights or entitlements under the substantive law'. Some authors consider this proposition as an element of the 'equality before the law' principle (Sackville 2002:2).

law should be able to access our courts and other institutions of justice' (Toohey et al. 2019, p. 133). Cappelletti & Garth (1978), admitting that the phrase is not easily defined, set out two requirements for access to justice. First, the legal system must be equally accessible to all; and second, it must lead to results that are individually and socially just. They clarify that equal access does not mean complete equality, that is, that 'the ultimate result depends only on the relative legal merits of the opposing positions, unrelated to differences which are extraneous to legal strength' (Cappelletti & Garth 1978, p. 186). Rather, to ensure effective access to justice, the first task is to acknowledge the differences between the parties and to identify the barriers that are inhibiting some of the parties from effectively accessing justice. In other words, the principle of access to justice implies the need for affirmative steps 'to give practical content to the law's guarantee of formal equality before the law' (Sackville in Law and Justice Foundation of NSW 2003, p. 20). As Scarman remarked:

It is no longer sufficient for the law to provide a framework of freedom in which men, women and children may work out their own destinies: social justice, as our society now understands the term, requires the law to be loaded in favour of the weak and the exposed, to provide them with financial and other support, and with access to courts, tribunals, and other administrative agencies where their rights can be enforced (Scarman 1974, p. 29).

Research across many countries over the past decades found that 'legal problems and legal needs are not equally distributed across society, across gender and across racial and ethnic lines' (OECD & Law & Justice Foundation of NSW, 2020). Often, socio-economically disadvantaged people are the most vulnerable, and thus the most likely, to experience legal problems, while at the same time also the most unlikely to be able to access appropriate legal services (Toohey et al., 2019; OECD & Law & Justice Foundation of NSW, 2020).

Scholars and organisations have undertaken research on the legal needs of disadvantaged groups in Australia and the barriers that are inhibiting them from accessing legal services and participating in the legal systems (Schetzer & Henderson, 2003; Coumarelos et al., 2012; Productivity Commission, 2014). Schetzer & Henderson (2003) identified groups of people who are economically or socially disadvantaged in terms of their ability to access the law and justice and the specific barriers that they are facing. These include

people with low levels of education and literacy; people living in remote, rural and regional areas; Indigenous Australians; and people on low incomes. Access to justice is analysed by Schetzer & Henderson (2003, p. 5) in terms of the ability to:

- Obtain legal assistance (including legal information, basic legal advice, initial legal assistance and legal representation).
- Participate effectively in the legal system (including access to courts, tribunals, and formal alternative dispute resolution mechanisms).
- Obtain assistance from non-legal advocacy and support (including non-legal early intervention and preventative mechanisms, non-legal forms of redress, and community- based justice).
- Participate effectively in law reform processes.

Various approaches and mechanisms have been implemented to improve access to justice for disadvantaged people. The creation of legal aid schemes was envisaged primarily to support litigants of limited financial means to overcome economic barriers in securing legal services (Toohey et al., 2019).⁸ The development of legal aid schemes was the first wave in what Cappelletti and Garth (1978) describe as three waves of access to justice reform. The second wave was the representation of group and collective ('diffuse') interests.⁹ The third wave, 'access to justice approach' to legal reform, has a much wider scope that covers the first two waves but also goes beyond court litigation to include other alternatives to litigation such as conciliatory, non-contentious procedures, such as mediation or other forms of alternative dispute resolution (Cappelletti & Garth, 1978; Toohey et al., 2019; Sackville, 2003). Toohey et al. (2019) posit that technology offers the 'fourth wave' in access to justice, arguing that there is 'great promise in the potential for

⁸ In Australia, the Legal Aid Office was established in 1974, marking 'the recognition by the Commonwealth that access to legal services required a national strategy', although its functions were subsequently taken over by State legal aid commissions (Sackville 2003:7). Other mechanisms to assist disadvantaged groups include Aboriginal legal services, pro bono services, legal assistance funds, women's legal resource centre, domestic violence advocacy service (Martin 2012; Schetzer & Henderson 2003).

⁹ Toohey et al. (2019:137) clarified that 'diffuse interests' refer to the many legal rights that 'are relatively low value, so as to make individual enforcement unlikely due to an inefficient use of resources', but 'at a societal level these disputes are significant and impact large numbers of people'. Examples are consumer disputes, which are 'routine transactions for most people, and are the most likely category of legal issue that people are likely to encounter' (Toohey et al. 2019:137).

technology to help make rights effective for the millions of individuals with civil justice problems' (Toohey et al., 2019, p. 133).

In this review, the focus is on the delivery of legal assistance to clients or potential clients of community legal services, particularly victim/survivors of DFV.

2.2.1 Barriers to accessing justice for victim/survivors of DFV

This section outlines the challenges and difficulties faced by women who are experiencing, or at risk of experiencing, DFV. The purpose is to pave the way for a better understanding of how technology contributes to bridging the access to justice gap by addressing these barriers.

2.2.1.1 Cost of legal services and litigation

The high expenditures related to legal problems, including obtaining legal assistance, transport costs and other miscellaneous expenses, is a problem particularly for people on low incomes, as well as many women who are trying to escape situations of DFV, especially when their partners control their finances (Smallwood, 2015). Justice Martin remarks that Australia has a terrific legal system, likening it to 'the Rolls Royce of justice systems', but adds that 'there is not much point of having a Rolls Royce in the garage if you can't afford the fuel to drive it anywhere' (Martin 2012:2).

The hard reality is that the cost of legal representation is beyond the reach of many, probably most, ordinary Australians. They can and should take pride in the fact that Australia has a very good legal system provided by judges and magistrates who are independent of executive government and in which corruption is virtually unknown. In theory, access to that legal system is available to all. In practice, access is limited to substantial business enterprises, the very wealthy, and those who are provided with some form of assistance (Martin, 2012, p. 3).

2.2.1.2 Geographical distance, isolation and cultural factors

People in rural, regional, and remote areas frequently have limited access to legal services due to remoteness and physical distance, and lack of access to transportation (Schetzer & Henderson, 2003). This is particularly problematic because geographic and/or social isolation is also one of the key factors that contribute to women's vulnerability to violence (VicHealth, 2017). Research has shown that women living in regional and remote areas are more likely to have experienced violence than those living in major cities, and that 'Indigenous women in remote and regional areas experience rates of family violence up to 45 times higher than other women do' (VicHealth, 2017, p. 9). At the same time, they are also the ones most hesitant to seek help, especially when the police, court staff, and relevant service providers know the perpetrator, or for fear that their situation will become known in the community and could lead to ostracism (Royal Commission into Family Violence, 2016).

Indigenous Australian women in particular comprise a disproportionately high number of victim/survivors of intimate partner homicide (McKibbin et al., 2021). Their experiences of violence are shaped by 'the specific and historical context of colonialism, systemic disadvantage, cultural dislocation, forced removal of children and the intergenerational impacts of trauma' (Blagg et al., 2020, p. 8). Thus, legal responses need to be distinct and tailored to their own cultural values and worldviews. Indigenous communities have been shown to be reluctant to involve outsiders in matters that they consider private (Schetzer & Henderson, 2003). This is compounded by circumstances such as their long-term distrust of the legal system, mainly due to previous experiences of lack of cultural awareness, sensitivity and compassion among legal service providers and court staff (Schetzer & Henderson, 2003).

2.2.1.3 Complexity of legal processes

The complexity of legal processes is a major barrier limiting peoples' access to justice, especially for people who have limited education or have low literacy (Schetzer & Henderson 2003:79). This is compounded by the fact that, as research has found, people who are most vulnerable to legal problems also have lower capability to deal with these problems, that is, they have 'less knowledge, resources and self-help skills to deal with legal problems' (OECD & Law & Justice Foundation of NSW, 2020). According to the Productivity Commission (2014), 'many people lack an understanding of their rights, have difficulty identifying the legal dimensions of their problems

and do not know where to go for appropriate advice and assistance’ (Productivity Commission, 2014. p. 8).

In a study by Smallwood (2015, p. 38), research participants lamented ‘the length and difficulty involved in the family law system for women experiencing family violence and financial hardship’. The problems identified include the use of formal language, difficulty in identifying the forms that need to be completed, and in determining what evidence needs to be put to the Court. For women fleeing violence, this could add to the stress and the anxiety caused by the likelihood of facing an abusive ex-partner in Court (Smallwood 2015, p. 38). The complexity of the justice system may also be alienating for children and young people, who have limited knowledge and awareness of their legal entitlements and the ways in which they can access legal remedies. They also have limited autonomy and rely heavily on adults to mediate their access to legal services (Schetzer & Henderson, 2003).

2.2.1.4 Fear of the perpetrator

A crucial factor which inhibits victim/survivors from seeking help is fear of the perpetrator. According to Spigelman (2010, p. 170), fear is ‘of particular significance to all forms of violence against women, particularly domestic violence’. As pointed out in a report by the Queensland Association of Independent Legal Services:

It is well understood that victims of domestic violence live in fear of the perpetrator and that a fear of retaliatory violence is the main reason that victims tend to under-report incidents of domestic violence. It is for this reason that women may also fear seeking assistance from legal service providers, particularly via ICT as the use of ICT systems may be tracked by perpetrators (QAILS, 2014: para5.1).(Citations omitted)

2.2.1.5 Mistrust of available resources that can facilitate access to legal remedies

Even where there are available technological devices that can help victim/survivors in seeking help, they may not be willing to use these, especially if they have experienced abuse through technology. According to Flynn et al. (2021, p. 36), people who had experienced technology-facilitated abuse (TFA) 'were uncomfortable having to access support through technology, associating technology with feeling unsafe'. Research has described various forms of technology-facilitated abuse engaged by perpetrators such as 'breaking devices and limiting or controlling victim/survivors' access to devices or digital media; using technology to monitor or stalk victim/survivors; and monitoring victim/survivors' use of technology, email accounts and social media profiles' (Carrington et al., 2021, p. 547-8). A study by Flynn et al. (2021:4) notes that TFA is a growing problem in Australia, especially with respect to a 'digital extension of coercive control behaviours employed by perpetrators of family violence to monitor, threaten and restrict partners or ex-partners'. In the wake of the pandemic, other forms of technology-based abuse have also escalated, including 'online stalking, zoombombing, cyberbullying, doxing (disclosing personal information online in retaliation), sexualized trolling, nonconsensual pornography (or revenge porn)', and other coercive behaviours (Emezue, 2020, p. 5). Because of this, some victim/survivors made a conscious decision not to accept help during the pandemic, as the safer option (Flynn, Powell, & Hindes, 2021, p. 36)

2.2.1.6 Lack of opportunities to seek help during the pandemic

The pandemic and its attendant restrictions presented particularly challenging situations for those experiencing violence within their homes. Safety and privacy concerns have been magnified due to the increased presence of perpetrators at home during lockdowns, reducing opportunities for victim/survivors to seek help and making it difficult and unsafe to even use communication technologies. Security or privacy issues include lack of private space at home to participate in telepractice sessions, difficulty communicating when they live with the perpetrator, or sharing computer or other devices with other members of the family (Joshi et al., 2021). A recent study by Carrington et al. (2021) found that some perpetrators have 'weaponised' COVID-19 conditions to enhance their controlling and coercive behaviours, using the pandemic as a reason for increased isolation of the victim and for monitoring the latter's movements, use of technology, and communication with others.

Significant efforts have been done explore how technology can help address these barriers. Community legal centres have been at the forefront of creating

innovative approaches to facilitating access to justice for victim/survivors of DFV (QAILS, 2014; Women’s Legal Service Victoria, 2014). The Royal Commission into Family Violence, which was created in 2015 to identify the most effective ways to address DFV, included among its 227 recommendations the following: That the Victorian Government fund works to ensure that all Magistrates’ Court of Victoria provide witness facilities that allow witnesses to give evidence off site and from court-based interview rooms; enable a DFV victim to give evidence from a place other than the courtroom by means of remote technology, if the victim prefers to do so; allow the use of audio-recorded and/or video-recorded evidence in DFV–related criminal proceedings involving either adults or children’; produce multimedia information about the FVIO process that can be viewed online as well as shown in court waiting areas; and roll out an online application form for all applicants for a FVIO across Victoria.

Various studies recognise that information and communications technology is increasingly considered as ‘a key enabler to overcome a range of barriers and make legal and justice services more accessible’ (OECD & Law & Justice Foundation of NSW, 2020, p. 26). This is elaborated in the next sub-section.

2.2.2 Using technology to address barriers to accessing justice

This sub-section surveys some of the studies that have been done exploring how technology has been used to improve peoples’ access to legal services and processes. It also incorporates, where available, some evaluations on the usefulness of various forms of technology. Unfortunately, as of this writing, there has not been many exhaustive assessments or evaluation on the use of remote technology to improve access to justice for those experiencing DFV in Australia. Most of the references to technology in relation to DFV are done in studies about technology and disadvantaged groups in general, with only a few paragraphs on DFV in particular. Many of these studies were also done before the outbreak of COVID-19 pandemic, which accelerated the use of technology in the legal sector as in other sectors and areas of life.

The most mentioned technologies are:

2.2.2.1 Telephone

The Queensland Association of Independent Legal Services (QAILS, 2014) did a review of available literature on the use of information and communications technologies (ICT) by the community legal centres (CLSs) to deliver legal services to the community. The review focused on the use of: (i) telephone; (ii) video-conferencing; and (iii) the internet. The document noted the high levels of access to telephones by the general public. The perceived benefits include lower costs, increased convenience for clients, and increased access for those who have traditionally had trouble engaging with legal services such as those living in remote and rural areas. However, the QAILS study found that the telephone services with high user satisfaction rates were limited to the provision of information, referrals and legal advice where appropriate, while those cases requiring complex advice need to be referred to face-to-face services. Further, legal telephone services appear to have limited usage for client demographic groups such as non-English speakers, individuals at the lowest education levels, those with legal problems that are too complex to tackle over the telephone; and individuals with serious learning disabilities, severe mental disabilities and/or limited communication or reading skills. This is similar to the findings of an earlier study in the United States, which found that hotline clients with the most favourable outcomes were 'significantly more likely to be white, English speaking, educated at least to the eight-grade level', while those with the least favourable outcomes were 'Spanish speaking, Hispanic, individuals with the lowest education levels, those who reported no income, and those who were separated and lived apart from their spouse' (Pearson & Davis, 2002, p. ii)

The Australian Innovations in Legal Aid Services study (Banks et al., 2007) on innovations in legal aid service delivery included a few sections on domestic violence. A key finding was that, while Family Law Hotlines were intended to be a first point of contact for people with family law problems, women 'who have low education and/or incomes, do not have legal representation, who are experiencing violence and/or who live in areas with limited access to services are very unlikely to be assisted by talking to a hotline' (Banks, Hunter, & Giddings, 2007, p. 183). One of the reasons for this is that family law and regional law hotlines were more provider-centred rather than client-centred, that is, the focus was on 'the mechanical dissemination of information, regardless of how useful or otherwise that information may be to the user' (Banks, Hunter, & Giddings, 2007, p. 228). The study recommended that services need to be user-centred, and in particular, that women

experiencing domestic violence be 'provided with the necessary advice, assistance and contact to a comprehensive range of services to meet their needs' (Banks, Hunter, & Giddings, 2007, p. 229). The QAILS study (2014) included a section on 'victims of violence against women'. The study found that: (i) women who call telephone hotlines for legal advice prefer to deal with other women and those who can understand their situation; (ii) interactive voice response that provide automated services 24 hours a day should be implemented, as legal assistance may be required at any time due to the nature of DFV situations; and (iii) automated call back systems that prioritise callers with domestic violence issues should be implemented so that less time is spent in the queue (QAILS, 2014, para 5.2).

2.2.2.2 Mobile responsive information and tools

More recent version of mobile devices allows clients not only to maintain contact with legal service providers through phone calls, text messages, e-mail and social media platforms, but also to access legal information and advice through tech-enabled systems delivered via smartphones or tablets (LSEW, 2017). These devices are particularly useful for people 'in remote locations who lack access to transportation, who are homebound, need or prefer written rather than spoken communication, or who have face-limiting disabilities' (LSEW, 2017, p. 67).

2.2.2.3 Video-conferencing, Skype, Zoom

The use of videoconferencing, Skype, and similar technologies is becoming more common for remote consultations. Both videoconferencing and telephone advice services have been deemed as an important part of 'an integrated approach to providing services to rural, regional and remote areas', in conjunction with face-to-face legal services (Banks, Hunter, & Giddings, 2007 p. 185). Indeed, it was recommended that 'videoconferencing' be used by 'the Commonwealth Government and state/territory governments, legal aid commissions and community legal centres', (Banks, Hunter, & Giddings, 2007, p. 185).

In 2011, the Law and Justice Foundation of New South Wales published an extensive review of existing research into the use of video conferencing to deliver legal advice and assistance to disadvantaged clients, particularly those in regional, rural and remote (RRR) areas and clients in custody (Forell et al., 2011). The increasing interest in the use of video conferencing in Australia

was attributed to: (i) efforts to reduce time and costs associated with providing in-person legal services in RRR, in the context of relatively high cost of maintaining resident legal services in these areas; (ii) the increasing availability, accessibility and affordability of technology for providing these services; and (iii) the rollout of the National Broadband Network (NBN) across Australia, providing opportunities for this to be utilised in the provision of legal services in RRR areas. The study found that lawyers and clients preferred in-person meetings to video conferencing, but video conferencing was an acceptable alternative for clients and lawyers when in-person meetings were not possible. Further:

When compared to the telephone, lawyers reported the advantage of being able to observe client responses, to better engage with their clients and to exchange documents. By contrast, clients appeared to focus more on issues of convenience and privacy, some preferring to speak to a lawyer by telephone from their own home rather than seeing a lawyer face to face by video conferencing (Forell, Laufer, & Digiusto, 2011, p. 2).

Some of the studies reviewed raised concerns related to costs such as technology, set up and maintenance and support costs at two locations (the lawyer and client end). However, a subsequent study by QAILS (2014, para 3.3) noted that more current web-based video conference applications 'may have the potential to realise some of the benefits that video conferencing was originally intended to deliver', since any person with internet access and a compatible video camera (or a 'web-cam') and microphone may be able to use video conferencing, aside from the fact that many web-based platforms are free of charge.

In 2012, the Women's Legal Service – Victoria piloted the use of Skype 'to provide legal advice, information and, where appropriate, representation to women who have experienced domestic violence and relationship breakdown' (Women's Legal Service Victoria, 2014, p. 14). An assessment of the project revealed that the use of Skype was 'cost effective and highly flexible as an outreach service can readily be relocated' and that it 'allows women to overcome geographic and other barriers which they may face in accessing legal services, whilst still facilitating private, safe and meaningful connections with lawyers' (Women's Legal Service Victoria, 2014, p. 14). Further, according to one research participant:

The Skype legal service has enabled rural women to access professional legal advice that “understands domestic violence”. This particular specialization resonates with women who often find that the legal system can be a “walk in the dark” and difficult to navigate without trustworthy no cost legal advice (Women’s Legal Service Victoria, 2014, p. 15)

A 2017 study in England and Wales observes that some people in rural communities are still having problems using these technologies, as they still ‘do not have access to high-speed Internet connections, some lack consistent phone reception, and others have little nearby access’ (LSEW, 2017, p. 61).

2.2.2.4 Websites, self-help centres and remote assistance

One way to address the complexity of legal processes is by accessing websites and self-help centres which provide ‘user-friendly, free or low cost online tools like court forms, videos and legal information’ (Toohey et al., 2019, p. 140). According to Toohey et al., (2019, p. 140), these services have the ‘potential to democratise law by narrowing the gap between experts and non-experts and facilitating self-help’. Some organisations are using ‘remote access software to assist users in navigating their websites to find available self-help resources’ (Cabral et al., 2012, p. 249). Online tools can include: ‘problem diagnosis, delivery of customised information, self-help support, triage and streaming into subsequent routes to resolution’ (LSEW, 2017, p. 11). Problem diagnosis is an important first step, as it helps the user recognise the nature of their problem through appropriate tools (LSEW, 2017). Examples of websites are Ask LOIS, which was launched by the Women’s Legal Service – New South Wales (NSW) in 2012 to provide free online legal information for community workers working with women victim/survivors of domestic violence.¹⁰ In Victoria, **LawHelp Australia provides** legal information in a user-friendly, accessible and culturally relevant way.¹¹ With the goal of becoming the first port of call’ for information that is easy to understand and produced in the native languages, **LawHelp** also includes links to some relevant sites and a directory of community legal centres and law firms in Victoria.

¹⁰ ‘Ask LOIS – Community Legal Online Information Service’, Women’s Legal Service NSW (Web Page) <<https://www.wlsnsw.org.au/training/ask-lois-website/>>.

¹¹ See <https://www.lawhelpaustralia.org.au/about-us/>

2.2.2.5 Live chat features and other interactive resources.

Another way to help people understand complex legal concepts and processes is through instant messaging programs where a website user can have an instant messaging session with a with a trained specialist who responds in real time, and who 'can answer questions and provide links to relevant resources on the site' (Cabral et al., 2012, p. 249). Further, intelligent technologies such as chatbots¹² provided through messaging apps, opens the door for conversation-based interfaces, which is useful for those who are new to the legal system, 'especially if the bot has the ability to navigate an awkwardly phrased enquiry using natural language processing (NLP) analysis to identify the underlying legal need' (LSEW, 2017, p. 73).

2.2.2.6 Social media tools

Aside from standalone websites, many legal aid organisations in many parts of the world now also maintain a presence on popular social media sites such as Twitter, Facebook, and YouTube (Cabral et al., 2012). Legal assistance centres' active presence in social media allows them to expand their outreach to the community by posting information about available services, self-help resources, court information, and videos that can help litigants understand their legal rights, complete forms, and prepare for court (Cabral et al., 2012).

2.2.2.7 Smart legal forms

Smart forms are becoming more commonplace and is particularly useful for individuals who are unable to obtain a lawyer to handle cases. As Toohey et al. (2019) explained, unbundled generators of legal documentation allows the disaggregation of the steps in the lawyer-client relationship and enables clients to complete part of the required work themselves by drafting

¹² According to The Engine Room, chatbots 'provide information in the style of a direct-messaging chat interface, with an automated flow of questions and answers determined by conditional logic' (The Engine Room 2019:22).

documents through legal document generators such as A2J¹³. Allowing clients to generate their own legal documents even without requiring detailed knowledge of the relevant laws, reduces the services that lawyers need to perform and lowers overall costs. To enable users to better understand the process, there are 'interactive guided interviews which walk the user through the process step-by-step via a user-friendly questionnaire interface' (LSEW, 2017, p. 64).

2.3 The concept of Legal Design

Toohey et al. (2019, p. 134) argue that 'human-centred design', or better known as Legal Design thinking, which focuses on 'embedding user-driven insights into how technological solutions are created', should be used in designing legal technology to ensure that they meet the needs of the end-users and not just the needs perceived by system experts and policymakers. There is no straightforward definition of the concept, which is considered more as a 'how' (process) rather than a 'what' (product). The Legal Geek¹⁴ makes a useful compilation of several approaches and definitions of Legal Design. For example, Consultant Emma Jelley describes it as 'a movement to make law more accessible, more usable, and more engaging', and that its 'building blocks are plain language and attractive visuals ... all intended to enhance user experience' (Legal Geek, 2018). Margaret Hagan, one of the first to coin the term Legal Design, defines it as 'the application of human-centered design to the world of law, to make legal systems and services more human-centered, usable, and satisfying' (Hagan, 2015).

There are many products, programmes, and processes that have grown out of Legal Design thinking. For example, the Victorian Legal Services Grants Program mentioned above focused its 2019 round on the theme *Designing Justice Differently: Using human-centred design and technology* (VLSBC, 2019). In his paper 'Technology and Access to Justice' presented at the International Legal Aid Group Conference (ILAG 2021, para 21), Roger Smith identifies legal design as 'one of the most exciting products of the current

¹³ A2J or Access To Justice website hosts interactive programs such as guided interviews which are particularly useful in helping help self-represented litigants (SRLs) fill out a legal form or document or complete a process. The website may be found at <https://a2j.org/>

¹⁴ See <https://www.legalgeek.co/learn/legal-design-wtf/>

period of technological innovation'. However, while the focus on end-users fits with the tenets of access to justice, Smith remarks that Legal Design, by itself, is not necessarily transformative. For one, the concept of 'user-centredness' can also be problematic inasmuch as, for instance, a landlord can be as much a user as a tenant (Smith in ILAG, 2021). In the same vein, an abuser is as much a user as a victim. Thus, while Legal Design methodologies have a great potential to contribute to access to justice, a genuine understanding of the specific circumstances of the different end-users, and the underlying issues impacting on their ability to access technologies, is required so that technological innovations can truly be designed based on their needs and perspectives. Further, given the significant investments in innovations made through user-centred design processes, it is also important, as Lupica & Grant (2021) stress, that a rigorous scholarly evaluation not only of the programs and products, but also the process by which they are developed, be implemented in order to learn from these innovations and identify which legal interventions work best.

The COVID-19 pandemic accelerated the use of technology in the provision of social and legal services. There is a growing body of work on the use of technology in providing services during the pandemic, albeit not many of these focus on legal service provision for victim/survivors of violence. These studies are outlined in the next section.

2.4 Increased use of Technology During COVID-19 Pandemic

The COVID-19 pandemic and the consequent travel restrictions beginning in early 2020 set in motion the rapid transition from face-to-face to online delivery of family and social services, while at the same time causing a surge in demand for these services due to an increase in DFV (Joshi et al., 2021).¹⁵ In Australia, like in many other countries, evidence of an increase in the prevalence and severity of DFV emerged following the outbreak of the pandemic and the introduction in March 2020 of government-directed restrictions aimed at curbing the spread of the virus (Boxall & Morgan, 2020). Lockdowns, physical distancing limitations, stay-at-home orders and

¹⁵ In May 2020, the Australian Government announced additional funding to facilitate virtual service delivery as a result of COVID-19, including \$13.5 million IT support provided to legal aid commissions, community legal centres, Aboriginal and Torres Strait Islander Legal Services, and Family Violence Prevention Legal Services to support their transition to delivering assistance virtually and online (McKibbin et al. 2021:13).

movement restrictions, as well as various associated factors such as unemployment, poor mental health, and financial hardship, heightened the risk of DFV while also limiting access to support services (Joshi, Paterson, Hinkley, & Joss, 2021; Pfitzner, Fitz-Gibbon, & Meyer, 2022).¹⁶ There is a growing body of international evidence that pandemic restrictions have contributed to the severity and prevalence of DFV in many jurisdictions (Boserup, McKenney, & Elkbuli, 2020; Mahase, 2020; Taub, 2020; Kluger, 2021; Usta, Murr, & El-Jarrah, 2021). Taking note of this alarming trend, the United Nations declared violence against women as ‘the shadow pandemic’, and urged governments to make the prevention of violence against women a key part of their national response plans for COVID-19 (UN Women, 2020).¹⁷

2.4.1 Technology-based responses to DFV during pandemic

2.4.1.1 24/7 hotline and online web-based services

Globally, the pandemic and its associated restrictions gave rise to newer forms of technology to facilitate the provision of online services, including free, round-the-clock (24/7) domestic violence hotlines (Emezue, 2020). Many countries expanded the use of ‘online web-based services for victims of violence, with 24/7 digitalized responses prioritizing the uniqueness of social and physical isolation’, web-services such as tele-counselling and

¹⁶ Boxall & Morgan (2020:1-2) list some of the factors that have been identified as contributing to the increase in prevalence and severity of domestic violence during the COVID-19 pandemic, including more time spent together by victims and offenders due to lockdowns; increased social isolation and decreased social movement, restricting opportunities for the victim to seek help; situational stressors such as unemployment or job insecurity and financial difficulties; and increased alcohol consumption among perpetrators.

¹⁷ Note that, while pandemic restrictions were associated with the increase in family violence cases in Australia, family violence was already at crisis levels even before the COVID-19 outbreak (Australian Bureau of Statistics 2017; Pfitzner, Fitz-Gibbon, & Meyer 2022). In Victoria, police data reported an 82% increase in the number of family violence incidents from 19,597 (1999 – 2000) to 35,720 (2009-10), with an overwhelming majority of cases committed against a woman by an intimate partner (Victims Support Agency, 2012). Academics and organisations have undertaken comprehensive reviews of the Australian government’s and Victoria’s responses to family violence (Victorian Law Reform Commission 2006; FVRIM 2021). Victoria has been actively involved in family violence policy development and reform in Australia for the past decades, and has been ‘influential in propelling reforms in other Australian and international jurisdictions’, including in the development and use of technological solutions in the area of family violence (Royal Commission into Family Violence, 2016:5).

telepsychiatry, and ‘a growing corpus of recommendations to guide the selection of pre-pandemic proprietary smartphone apps’ (Emezue, 2020, p. 3).

A policy brief prepared by OECD and the Law & Justice Foundation of New South Wales (2020), which explores the impact of the COVID-19 crisis on justice systems and their users across the globe, devotes a section on ‘Tackling domestic violence’. The brief highlights:

A critical function of justice and law enforcement systems in the context of strict lockdown has been to provide a **survivor-centred justice pathway**, which could empower survivors to denounce their abuser safely from home. This could be achieved, among others, through provision of a helpline number or website established for this purpose. These resources should be complemented by adequate and language-appropriate information about the victim’s rights, and regarding when and how to seek help (OECD & Law & Justice Foundation of NSW, 2020, p. 33). (Emphasis in the original)

The brief also presents good practice examples of technology-based responses to domestic violence. For instance:

In **Spain**, a comprehensive COVID-19 response programme for gender violence victims has been launched, where on top of the existing 24/7 attention number and e-mail address, several WhatsApp numbers have been introduced to ease making claims and to provide psychological support. An App called ALERTCOPS has been developed through which victims can alert the police and send their address without having to make a call. In addition, all victims have the right to free legal advice in 52 languages through the helpline number.

In **Egypt, Slovak Republic, Tunisia, Lithuania, Chile, United Kingdom and France** among others, special free helpline numbers have been established for domestic victims in immediate danger. These are also serviced through e-mail in **Denmark** and SMS in **France**. In addition, some countries (e.g., **Chile, Spain and France**), are using the code word “Facemask 19” is used in pharmacies to identify the women seeking assistance (OECD &

Law & Justice Foundation of NSW, 2020, p. 34-5). (Emphasis in the original)

2.4.1.2 *The use of telepractice in Australia*

In Australia, many social services transitioned to using telepractice, defined as 'the use of telecommunications technology – including voice calls, video conferencing or teleconferencing – to assess, triage and provide therapeutic and other supports to clients, enabling clients and service providers to meet despite being in different physical locations' (Joshi, Paterson, Hinkley, & Joss, 2021, p. 3)

In Australia, and countries, pandemic control measures necessitated a sudden pivot to remote service delivery models for DFV specialist practitioners. In Queensland and Victoria this necessitated a transition from predominantly face-to-face service delivery to reliance on video, web, message and phone-based services that could be delivered remotely to comply with each state's COVID-19 restrictions (Pfitzner, Fitz-Gibbon, & Meyer, 2022, p. 32).

Recent studies undertaken on the use of telepractice focus on the provision family and relationship services¹⁸ (Pfitzner, Fitz-Gibbon, McGowan, & True, 2020; Hinkley, Alla, & Joss, 2021; Joshi, Paterson, Hinkley, & Joss, 2021). Although these studies do not focus on the legal sector in particular, telepractice is equally useful for legal aid and community legal centres in their provision of legal information and advice to victim/survivors of DFV.

2.4.1.3 *Combination of remote technologies*

Recent studies revealed that many service providers reported implementing a variety of means to deliver services remotely, some of which were designed

¹⁸ Family and relationship services sector covers child and family services, mental health and family law services including Children's Contact Services; Family Dispute Resolution; Family Law Counselling; Family Relationship Centres; Parenting Orders Program – Post Separation Co-operative Parenting Services; Supporting Children after Separation Program (Hinkley, Alla, & Joss 2021:7).

specifically in response to the pandemic while other were already existing and were just expanded (N Pfitzner, Fitz-Gibbon, McGowan, & True, 2020; OECD & Law & Justice Foundation of NSW, 2020; McKibbin et al., 2021). For example,

Various community service organisations used different service delivery adaptations including video conferencing (e.g. Zoom and Microsoft Teams), telephone appointments, use of telehealth platforms, introduction of web services (e.g. online chat), text messaging, online education programs, and victim and survivor support and perpetrator interventions moving to online and telephone services (McKibbin et al., 2021, p. 27).

A survey of Australian non-government organisations (NGOs) and government agencies providing specialist and mainstream services to people experiencing family and domestic violence, revealed that 76% of clients used remote technology to access relevant services (Carrington et al., 2021). Out of 342 respondents, a large majority relied on phones or mobiles, as well as other technologies (Carrington et al., 2021, p. 549):

- phones or mobiles (94%)
- e-mail (71%)
- Zoom (36%)
- Skype (11%)
- Messenger (10%)
- Whatsapp (10%)
- Google Hangouts (1%)

Further, the survey also shows that about 18% reported using other technologies such as MS Teams, PEXIP, WeChat, Gruveo, service Website, telehealth, Slack, Post and Goto (Carrington et al., 2021, p. 549):

2.4.1.4 Technological innovations to address risk and security issues during pandemic

Some service providers in the DFV sector in Victoria as well as in Queensland have taken steps to address the problems regarding privacy and safety in

using technology, particularly during lockdowns where women's help-seeking opportunities are restricted.

Practitioners explained that consequently organizations created new alert systems for women to signal they were at risk or needed support. These alerts include the use of code words in telephone and text communication as well as physical signals. Similarly practitioners adapted their risk identification and assessment processes, describing innovative remote approaches including doing 'house tours' via video call with victim-survivors to gain an understanding of their environment as important context for risk assessment and safety planning (Pfitzner, Fitz-Gibbon, & Meyer, 2022, p. 3).

To address the problem of surveillance of communication devices and online activities of the victim/survivor by the perpetrator, several organisations 'began using encrypted web-based video call services that do not require users to download apps to their devices' (Pfitzner, Fitz-Gibbon, & Meyer, 2022). Practitioners have also developed creative ways to safely communicate with clients without raising perpetrator suspicions regarding the victim/survivor's help-seeking plans, such as generic text messaging and using non-identifying service labels and non-identifiable phone (Pfitzner, Fitz-Gibbon, & Meyer, 2022).

Even before the pandemic, community legal centres and other legal service providers in the area of DFV have already stressed the need to consider first and foremost the safety of their clients/prospective clients when designing and implementing technology-based interventions (QAILS 2014, para5.1). Among the measures recommended in the QAILS study are ensuring anonymity of callers to telephone services, provision of information about the safe use of ICT systems, automated services after business hours, and the prioritisation of callers who are victim/survivors of domestic violence (QAILS 2014, para5.2). The Royal Commission into Family Violence (2016, p. 13) stressed that the Victorian community not only need to find 'swift solutions to combat the ways perpetrators use mobile phones, social media platforms and surveillance devices to stalk and harass their victims' but also to identify ways in which technology can be used to, among others, support and empower victim/survivors by facilitating their safe and secure access to information and advice and to the courts.

2.4.1.5 Online Application for Family Violence Intervention Orders

Family Violence Intervention Order (FVIO) is a civil court order available under the Family Violence Protection Act 2008 (Vic) to protect a person, their children and their property from a family member who is using DFV. Starting in early 2020, the Magistrates' Court of Victoria rolled out an online application form for DFV victim/survivors to apply for an intervention order, with the aim of streamlining the application process for DFV victim/survivors, improving access for those in rural and regional areas; and removing the need for DFV victim/survivors to complete the form in person (Government of Victoria, 2020). The Victoria Legal Aid and the Federation of Community Legal Centres (2020) released an information sheet for DFV specialist services, which stated that a person experiencing DFV may apply for an intervention either online (through an online application system), in person, or by completing an application and emailing it to the relevant court. Although there has not yet been an exhaustive assessment done on the use of online means to apply for FVIO, Campbell notes that the 'speed at which Victoria's FVIO system moved to online operation was both commendable and previously unthinkable for many of those familiar with the complex considerations involved' (Campbell et al., 2021, p. 4). She posits that remote working is seen by many as beneficial:

This is because remote working can mitigate challenges associated with physically attending court, such as going through security, as well as enduring chaotic and crowded waiting areas. It can also reduce the fear of being in physical proximity with someone who has perpetrated violence; as well as remove barriers for people who do not have the resources for childcare or for travel, especially for those in regional areas (Campbell et al., 2021, p. 4).

2.4.1.6 Automated Legal Advice Tools

The University of Melbourne's Networked Society Institute undertook a study on new technologies whose major purpose is providing legal advice (referred

to as Automated Legal Advice Tools or ALATs), and their impact, limits, and how they are transforming legal practice in Australia (Bennett et al., 2018).¹⁹

As the study explains, legal advice involves, among others: selecting, drafting, or completing legal documents; representing a person before a court or tribunal; negotiating legal rights or responsibilities on behalf of a person; and predicting an outcome of a legal dispute. ALATs, which are built on 'artificial intelligence, natural language processing, and machine learning tailored for legal services', provide these services, either on their own or supervised by a lawyer; or by augmenting legal advice given by a lawyer; or offering limited or partial legal advice by unbundling transactions into smaller discrete tasks (Bennett et al., 2018, p. 21). ALATs can include specialised standalone technologies, such as legal chatbots, apps and virtual assistants; enablers of legal advice such as legal automated drafting, document review and legal algorithms; further enablers of legal advice including legal data analytics and predictors, and legal AI; among others (Bennett et al., 2018, p. 21).

While the study was published in 2018, during which time ALATs were 'at the leading edge of new information technologies' and 'still at a relatively early stage of adoption by lawyers and the legal industry' (Bennett et al., 2018, p. 9), it is reasonable to suppose that the use of such technologies became more widespread during the COVID-19 pandemic. The study noted that, even though there is some uptake in ALAT among community legal centres and legal aid services, the use of ALATs is currently linked more to the ability to invest, and 'are more concentrated within the large corporate hemisphere while the legal assistance sector has seen a greater proliferation of lower tech apps and chatbots' (Bennett et al., 2018, p. 36). Further, while technology is playing an important role, it cannot presently replicate the complexity of the whole package of legal advice giving, which involves an interplay of a broad range of knowledge and professional attributes including capacity and skills in legal analysis and the exercise of professional and ethical judgment, among others. In the case of family and domestic violence, interpersonal interactions and rapport with the lawyer may be needed, and the support that victim/survivors of DFV may need in these circumstances may not be easily replicated online (Campbell et al., 2021).

¹⁹ The document (in its Appendix) provides a selection of current examples of ALATs from the UK, US and Australia. The list is not comprehensive but aims to capture the breadth and diversity of ALATs in the market (Bennet et al. 2018).

2.4.1.7 Online Family Dispute Resolution

Family dispute resolution (FDR) is provided under s10F of the *Family Law Act 1975* (Cth), as a non-judicial process in which an FDR practitioner helps people affected, or likely to be affected, by separation or divorce, to resolve some or all their disputes with each other. Technological developments have made significant changes on the way FDRs have been conducted, including the establishment of the Telephone Dispute Resolution Service in 2007 (Wilson-Evered et al., 2011). The provision of FDR through online technologies has been explored years before the pandemic, but the shift to videoconferencing platforms was accelerated during the lockdowns.²⁰ Among the benefits of online FDR that have been identified are: it can be done at any time, even where parties are in a geographically remote location or are located in different countries; reduces costs related to travel and accommodation; prompt and virtually immediate delivery of progress and agreements; the lack of face-to-face contact and communication can be less threatening where domestic violence is involved in the relationship (Wilson-Evered et al., 2011).

There are different views on the applicability or appropriateness of FDR in DFV cases, but there is a high degree of consensus that using FDR in such cases carries particular risks (ALRC, 2010). There are a range of issues which can make it a dangerous and unsafe process for victim/survivors (Field, 2010). For instance, even though there is a screening process to ensure that victim/survivors are not using FDR in inappropriate circumstance, some victim/survivors may find themselves in FDR with the person committing violence against them, such as in negotiating arrangements for the children. In such cases, due to their vulnerable position, power imbalances at home and unequal bargaining position, victim/survivors may have a reduced capacity to negotiate, and the process may exacerbate their situation or may result in unjust outcomes (Field, 2010). These issues are critical whether the

²⁰ Even before the pandemic, there were negotiation support systems that can facilitate digital resolution of disputes, such as SmartSettle, an 'interactive computer program developed to assist those involved in negotiating agreements among parties having conflicting objectives' (Wilson-Evered et al., 2011). The iconic Dutch Rechtswijzer, designed for couples who are separating or divorcing, gathers demographic information from each party then guides them through questions about their preferences towards an agreed settlement. The British Columbia Civil Resolution Tribunal, arguably the most widely available ODR system, diagnoses the parties' dispute and then provides legal information and tools, such as customised letter templates. If this does not resolve the dispute, a party can then apply to the Tribunal for dispute resolution (Sourdin & Zeleznikow, 2020).

process is done online or face-to-face. The Australian Law Reform Commission (ALRC, 2010) notes that in determining whether a dispute is appropriate for FDR, the FDR practitioner must take into consideration factors relevant to the ability of any party to negotiate freely, including the equality of bargaining power among the parties. The Battered Women's Justice Project (BWJP, 2020) cites core limitations in online dispute resolution, such as the inability of mediators to see what is happening beyond the computer screen, whether there are threats around the person, or through other platforms such as text messaging, FaceTime, social media, or email, or whether a party utilize spyware or tracking devices to monitor or intimidate the other. The BWJP lists some tips for mediators to ensure safety of victim/survivors, such as explaining the risks regarding security and confidentiality to parties; adopting a systematic screening protocol to identify and address abuse between the parties; gauging parties' commitment to good faith participation; and considering parties' access to internet and digital literacy.

2.5 Summary of benefits of remote technology for victim/survivors of violence

Below is a summary of the benefits of using remote technology in providing services related to domestic violence, as shared by service providers and clients in the various studies reviewed. These studies include: a report Commissioned by the School of Population Health of the University of New South Wales on how frontline DFV workforce in Australia provided services during the pandemic (Cullen et al., 2020); a report by ANROWS examining DFV strategies and responses during the pandemic (McKibbin et al., 2021); and a policy brief gathering some key lessons that justice systems can take away from global responses to the pandemic (OECD & Law & Justice Foundation of NSW, 2020).

- Specifically, during the pandemic, remote services such as telephone counselling ensured that service providers remained connected to their clients even during lockdowns, while eliminating the risk for both staff and clients to catch COVID-19.
- Online/remote service provision is convenient for many clients, as it saves them from commuting; or for those who work, it allows them to talk to service providers on the phone while they are driving to and from work.
- It reduces anxiety, shame and power imbalance that may be involved with face-to-face appointments. It also increases the sense of security

for some victim/survivors of DFV since they can do counselling while they are in familiar surroundings or in the comfort of their homes, and there is no need for formal dress code.

- It reduces the risk of re-traumatisation brought about by the physical presence of the perpetrator near the victim/survivor.
- Online application for intervention orders reduces the stress of going to court which can be intimidating. Further, the possibility of seeing the perpetrator may increase stress and anxiety.
- Telehealth/digital options made it easier for people in regional, remote and rural areas to access services.

While these recent technological innovations are significantly contributing to peoples' increased access to legal services and the courts, the use of technology is not without drawbacks. Some of the challenges raised by experts are outlined in the next section.

2.6 Limitations of using technology in assisting victim/survivors of DFV

Technological advances are greatly influenced by the social context in which they are created (Kee, 2006, p. 1). According to Grübler (1998, p. 21), technology 'cannot be separated from the economic and social context out of which it evolves, and which is responsible for its production and its use'.²¹ Thus, some studies have pointed out that if not implemented carefully, technology can exacerbate existing inequalities in access to information. As pointed out in a study by The Engine Room:

Technology-enabled initiatives that ignore socio-economic, geographic and digital literacy-related barriers have the potential to deepen inequalities in access to justice. Any use of technology to genuinely broaden access to justice must be sensitive to these dynamics. (The Engine Room, 2019, p. 10)

It would therefore be a mistake to assume that technology can bridge access to justice gaps without taking into account factors such as class, gender, ethnicity, able-bodiedness, among others, which position people 'at different locations and with divergent and multiple identities having an unequal ability to benefit from ICT development' (Kee, 2006, p. 1; LSEW, 2017). For

²¹ At the same time, it has to be noted that technology also has an important role in transforming this economic and social context, locally, regionally, and globally (Grübler, 1998).

victim/survivors of violence, they face issues that are specific to their circumstances.

2.6.1 Risks associated with technology use

While technology may be useful in assisting victim/survivors of DFV to get the help they need, it can also present further risks, especially when abusers have technical knowledge or have access to technology that they can use to control their victims. For example, a perpetrator may be able to track a user's website browsing history even if it has been cleared by the user (QAILS, 2014). This is particularly relevant in the face of Australian Prime Minister Scott Morrison's observation that as early as March 2020:

Google is seeing the highest magnitude of searches for domestic violence help that they have seen in the past five years with an increase of 75 per cent and some services are already reporting an increase in demand (Prime Minister of Australia, 2020).

Kee (2006, p. 9-10) enumerates some of the software or programmes that may put victim/survivors at risk when using technology to seek assistance:

- Spy software, which allows abusers to have access to all keystrokes made on the computer, including all email correspondence, web surfing and internet communication.
- Wireless technology that allows the abuser to overhear the survivor's conversations and activities.
- Features that keep a log and even a copy of conversations between a survivor and others in chat rooms or instant messaging facilities, if the survivor is unaware of this feature.
- Browser History, a feature in some web browsers which creates a record of internet sites recently visited. This record is stored in the computer's temporary internet or cache file, and if not cleaned after every use, may allow the abuser to access the survivors' internet activity, including efforts to obtain information about DFV, as well as remedies and services that are available.
- Email Tampering, such as when an abuser intercepts or redirects emails or configures email software to place a copy of mail messages in other inboxes. Further, abusers may be able to access 'sent messages' from the 'sent items' folder, or even in the 'deleted items' folder, when the survivor fails to delete/empty them.
- Visual Surveillance such as through web cams and other hidden surveillance cameras that monitor a person's activities.

- Tracking Survivors through Global Positioning System (GPS), a satellite-based navigation system that can track the location of the user anywhere in the world.

A recent study by Australia's National Research Organisation for Women's Safety (ANROWS) on intimate partner homicide provides examples of actual cases where the perpetrator was able to access the victim's dating profile without her consent; or where a victim's phone conversations were recorded; or where a perpetrator stalked and monitored the victim's movements for an extended period of time through GPS tracking software and installing CCTV cameras in their shared apartment and outside the front door (Boxall et al., 2022).

2.6.2 Risks associated with the lack of face-to-face presence

There are some studies suggesting that the lack of personal and face-to-face contact can generate disengagement on the part of the clients, and that participants involved in video conference proceedings experience increased isolation and emotional distress (OECD & Law & Justice Foundation of NSW, 2020). It also reduces opportunities to build rapport and to build the relationships needed to ensure effective service provision for victim/survivors, especially for Aboriginal women, and makes it less likely for them to seek legal advice or to share information with their lawyers. A study by Cullen et al. (2020, p. 20) notes that some practitioners 'found it harder to build rapport and assess the severity of DFV via phone or online compared to face-to-face'. The lack of face-to-face proceedings may also have adverse effects in cases involving children, who may not fully understand the seriousness of any proceedings if they are conducted through a video call (OECD & Law & Justice Foundation of NSW, 2020). Further, a videoconference makes it difficult, if not impossible, to detect dangers or threats to the victim via computer screens or monitors.

The dangers of remote engagement for victim/survivors of DFV, in particular, are considerable where this does not occur with support services available and where the court cannot be confident that the perpetrator of that violence is not actually present in the same room...

Just as relevantly, we know that the challenges of understanding legal terminology or processes can be mitigated by a client's close proximity to their lawyer, particularly for a client who is from a

linguistically diverse background, has low literacy or a cognitive impairment. Equally, the experience of a court hearing can still be highly re-traumatising, regardless of whether it occurs remotely or in person. The support that people often need in these circumstances is not something which is easily replicated online (Campbell et al. 2021:4-5)

2.6.3 Digital divide and digital exclusion

Digital divide is defined as ‘the gap between individuals, households, businesses and geographic areas at different socio-economic levels with regard to both their opportunities to access information and communication technologies (ICTs) and to their use of the Internet for a wide variety of activities’ (OECD, 2001). Toohey et al. (2019, p. 145) note that digital divide severely influences ‘the impact of technological solutions in communities where they are most needed’.

For example, older people, people with disabilities, indigenous people, people from lower socioeconomic communities, rural and remote communities, and people for whom English is a second language, represent both groups of acute legal need but also the least capable of accessing digital services (Toohey et al., 2019, p. 145)

This is similar to the findings in an OECD report that ‘people who do not have access to Internet connection and lack digital skills are often individuals which were already in more vulnerable economic and social positions to begin with’ (OECD & Law & Justice Foundation of NSW, 2020, p. 13).

In Australia, a 2018 Digital Inclusion Index report found that the most digitally excluded groups (measured in terms of access, affordability, and digital ability) included low-income households; mobile-only users; people aged over 65+; people who did not complete secondary school; and people with disability.²² Recently, studies in Victoria revealed that shift to remote hearings

²² According to the Australian Digital Inclusion Index, digital inclusion is about bridging digital divide. It is ‘based on the premise that all Australians should be able to make full use of digital technologies’. (Thomas et al. 2018:7)

during COVID-19 'has highlighted existing inequities in digital access and literacy within the community' (Fitz-Gibbon & Pfitzner, 2021, p. 3).

To address the digital divide and ensure effective and equal access to justice, the barriers to digital inclusion need to be identified and addressed.

2.6.4 Affordability issues

Although technology has been heralded as one of the means for addressing the high cost of legal services, high usage costs and budgetary constraints put people, especially those experiencing financial hardship, at risk of digital exclusion (Fitz-Gibbon & Pfitzner, 2021; Kee, 2006). For the past years, affordability has slightly improved, as devices, internet services, and cost per gigabyte of data become less expensive (Thomas et al., 2018). Thus, the number of individuals with access to affordable internet have been increasing (Toohey, et al., 2019). However, according to the Australian Digital Inclusion Index (Thomas et al., 2018, p. 12), since 'Australians are spending more time online and more money on internet services', expenses on internet services have also increased faster than household income, affecting particularly those with lower incomes as they have less discretionary income to spend. Indigenous Australians, in particular, spend a greater portion of their household income on internet connectivity as compared to other Australians, and also receive less data for each dollar of expenditure (Thomas et al., 2018). This reflects the prevalence of mobile-only use, which costs substantially more per gigabyte than fixed broadband, amongst the Indigenous Australians population.

In a 2020 study supported by the University of New South Wales, research participants noted that 'some clients from low socioeconomic backgrounds didn't have sufficient data allowance in their internet plan to participate in services online' (Cullen et al., 2020, p. 20). Further, a recent survey by Carrington et al. (2021, p. 549) found that almost 50% of respondents are unable to access remote services because they are 'unable to afford devices/data/credit/software', among other issues.

2.6.5 Technical issues

Technical issues, such as poor internet connectivity and unreliability, are also common issues especially in rural, regional and remote areas. A study in England and Wales observes that some people in rural communities are still

having problems using technologies, as they still 'do not have access to high-speed Internet connections, some lack consistent phone reception, and others have little nearby access' (LSEW, 2017, p. 61). In Australia, while mobile phone and broadband coverage is reasonable in many city areas, there are spots with little or no coverage (McKibbin et al., 2021, p. 33). A recent survey (Carrington et al., 2021, p. 549) found that many Australian clients were unable to access remote services because of issues of lack of coverage, which particularly impacted on 'people in rural, regional and remote communities, including Indigenous communities'.

2.6.6 Limited computer literacy

Lack of computer literacy and limited ability to use technological equipment is a problem especially for those with low level of education and literacy. Further, even for those with relatively higher level of education, it is challenging to keep up with rapid technological changes. Data from the Australian Digital Inclusion Index report (Thomas et al., 2018, p. 12) shows that 'while Australians report increasing interest in having continuous internet access, they struggle to keep up with new technologies, and relatively few users engage in more advanced activities'. Although there is limited data on the digital literacy of users of legal services (Toohey et al., 2019), a recent study notes that the 'exclusionary impact of digital literacy is ... likely to disproportionately impact older Australians and people with limited English familiarity' (Fitz-Gibbon & Pfitzner, 2021, p. 3). Another study found that:

For many victims and survivors there were technological barriers. Not all women had access or skills to use technology. This limited their ability to use online services which often required the scanning of documents or using email. This was considered to be particularly relevant to older women, though clearly they were not the only cohort who were disadvantaged (McKibbin et al., 2021, p. 33).

Innovations to support accessibility of digital services have been piloted in some countries. For example, in Canada, a project seeks to involve community librarians to provide basic guidance into legal procedures and legal technology (OECD & Law & Justice Foundation of NSW, 2020). In Portugal, a project uses vans to take advisors to remote and rural areas in the country, to reach citizens who do not otherwise have access to remote technology (OECD & Law & Justice Foundation of NSW, 2020).

2.6.7 Socio-cultural and psychological barriers

Banks et al. (2007) have observed that in some instances, technology may be resisted because communities find it impersonal and threatening, and that they would prefer face to face contact with another person. Further, a study by the Australian Institute of Family Studies found that although there was a significant increase in the use of telepractice during the pandemic restrictions, some client groups, such as people from diverse cultural backgrounds are difficult to reach and engage via telepractice' (Hinkley, Alla, & Joss, 2021, p. 4).

Toohey et al. (2019, p. 145) also raise the issue of 'mental bandwidth', defined as 'the amount of space available in one's head for processing'. According to them, those living with high levels of financial stress or living in poverty show decreased mental bandwidth, that is, decreased ability to cognitively process complex information in a digital environment.

As such, while technology was shown to significantly contribute to improving access to legal services (as well as family and relationship services in general) technological advancements must take into consideration the challenges faced by end users, particularly the disadvantaged groups who face the risk of being digitally excluded.

In sum, technology has made significant contributions in addressing some of the barriers associated with accessing legal systems and services, but at the same time, there are also drawbacks and risks in using technology to assist clients or prospective clients, particularly victim/survivors of DFV. These factors should be considered in designing and using technology-based interventions, to enable victim/survivors of violence to freely and safely access and maximise the use technology in their efforts to free themselves from situations of abuse.

2.7 Conclusion

Moving forward from the COVID-19 pandemic, the justice system should build upon the gains made in using remote technology to improve access to justice for victim/survivors of violence. As Fitz-Gibbon & Pfitzner (2021, p. 3) state:

For women experiencing family violence who live in rural and regional Australia, who live with a disability, and/or who may be unable or unwilling to engage with the justice system in person, the move to online proceedings holds promise for accessible and efficient administration of justice.

Lessons learned should be incorporated in future design and implementation of technology-based interventions ‘to ensure we create a criminal justice system that is more accessible, streamlined and effective for a greater range of women experiencing family violence’ (Fitz-Gibbon & Pfitzner 2021, p. 4).

Among the key findings and lessons learned in the reviewed studies are, first, that the design of any technology-enabled innovations should be user-centred and not provider-centred (Banks et al., 2007). That is, the design of the technology, as well as the monitoring and evaluation of its performance against objectives, should include the views and experiences of the users. While the tendency for technology to be provider-centred has been an issue since before the spread of COVID-19, the recent study by Sourdin & Zeleznikow (2020) points out that one of the current issues associated with the use of technology is that decision-making is often not human-centred, but rather undertaken without taking into consideration the needs of end-users. They submit that this is one of the issues that need to be re-evaluated so that technology can be deployed to meet the challenges of the viral outbreak, and ultimately to ensure that advances in technology lead to user-centric innovations that last beyond the COVID-19 crisis.

Second, technology should not be a replacement for in-person legal advice and support. In-person legal advice and support should **remain a crucial part of legal services, even as technology can help determine situations where in-person support is needed, and guide the user to it** (The Engine Room, 2019). Further, technology should not be introduced primarily to cut the costs of providing legal information and advice, and that, again, it is the users’ needs that should be considered. Recent studies on the use of remote technology highlight the need to implement a variety of means, or to maintain hybrid modes of delivery even after the pandemic (OECD & Law & Justice Foundation of NSW, 2020) (Fitz-Gibbon & Pfitzner, 2021; McKibbin et al., 2021).

Hybrid modes of delivery will undoubtedly be necessary for the foreseeable future. We encourage those charged with overseeing the delivery of ‘justice’ during COVID to build upon this opportunity for far-reaching change and reimagine how a justice system delivered both in-person and remotely could enhance outcomes for those women experiencing family violence who seek legal recourse (Fitz-Gibbon & Pfitzner 2021, p. 4).

Third, it is important to undertake assessments and evaluations to understand what works, what needs to be improved, and what needs to be replicated, in

order to ensure that decisions in relation to any justice reforms, even beyond the pandemic, are informed by sound evidence (OECD & Law & Justice Foundation of NSW, 2020).

If the purpose of justice systems could be seen as meeting the legal needs of the community and business in a people-centred manner, this should allow for appropriate monitoring, review and evaluation of the new remote and online processes to determine what strategies and processes work best, in what circumstances, for which people, and at what cost. As justice systems undertake the needed process of reflection on the suitability and people-responsiveness of its existing and new processes, there is scope to systematically introduce a people-centred lens to impact assessments of justice system processes, and to create a more rigorous evaluation culture to apply to justice and legal initiatives. Such people-centred impact assessment and evaluation could support the understanding of ‘what works’ and for whom, and hence improve the responsiveness of justice systems to the needs of citizens (OECD & Law & Justice Foundation of NSW, 2020, p. 10).

This review has shown that technology plays a crucial role in ensuring effective access to justice and has contributed significantly to ensuring continuity of justice services during the pandemic. However, it is important to remember that technology is not a one-size-fits-all solution. If not designed and implemented carefully, technology can worsen an already inequitable situation. Responses and innovations require a ‘recognition that needs will be greater for some people and communities than for others’ (McKibbin et al., 2021). Designing and using technology-based innovations in the legal sector must factor in and address the barriers that may prevent people, particularly the most at risk, from accessing these technologies. Legal service providers need to take into consideration the specific circumstances of victim/survivors of DFV, and ensure, first and foremost, their safety and security in using technology-based innovations to cater to their needs.

Next steps

This Progress Status report details insights into the current use of remote technology by Victorian legal services in providing legal access to victim/survivors of DFV (part one) as well as providing a comprehensive review of technological innovations that could enhance access to justice for victim/survivors of DFV (part two). Interviews with seven legal practitioners show that while technology is widely used and embraced in the provision of services to victim/survivors of DFV, the use comes with significant limitations. Notably, that the technologies utilised are not always designed with victim/survivors in mind and therefore lack an understanding of how trauma may impact and shape the way that victim/survivors interact with technology. This finding corresponds with the primary outcome of the review of existing and emergent practices of technology-based innovations, which concluded that technology used in legal practice needs to be person-centred, and not replicate existing structural inequalities.

This research provides an essential evidence base to draw from when taking the next steps in this project, which include identifying a potential technological innovation to improve access to justice for victim/survivors of DFV, identifying pilot sites for the technological innovation to be tested in and working in partnership with key government, industry and legal service partners. The evidence indicates that the technological innovation needs to be developed in a trauma-informed and survivor-centred way. Through the interviews with legal practitioners, important relationships are being established and developed with key legal service partners, where piloting of the technological innovation can be tested. The insights from this research will be vital in developing further partnerships with industry partners to provide essential resources and innovations to improve access to justice for victim/survivors of DFV and other vulnerable and remote Victorians.

APPENDIX 1

CATEGORY I COMMUNICATION TECHNOLOGIES

Telephone	
User	Victim/survivors (to contact lawyer; court; other support services)
	Lawyers (to contact victim client; other relevant parties)
	Interpreters (for remote provision of translation services in lawyer-client meetings, court proceedings, etc.)
Benefits	Allows for remote contact between stakeholders.
	Lack of face-to-face contact is added layer of privacy for clients.
Drawbacks	Lack of face-to-face contact may impede development of rapport/trust between lawyer and client/support service provider.
	Calling on a known number may expose victim to risk if perpetrator sees call log. However, calling on a private number may mean client is reluctant to answer the call.
	Accessibility – dependant on client having access to a mobile device, phone reception, and phone credit.

Video conferencing	
Examples	Skype , Zoom , Google Hangouts , Microsoft Teams , PEXIP , Gruveo , Goto
User	Victim/survivors (to contact lawyer and other support services; to engage with online court hearings/mediation/dispute resolution)
	Lawyers (to contact victim client; other relevant parties; to engage with online court hearings/mediation/dispute resolution)
Benefits	Allows for remote contact between parties.
	Allows parties to have face-to-face contact despite communicating remotely – may enable lawyers/support workers to read non-verbal cues.
Drawbacks	Lack of in-person contact may impede development of rapport/trust between lawyer and client/support service provider.

	Accessibility – Requires access to a device and internet.
	Accessibility – Requires tech literacy.
	In some cases, the only device to which a victim has access is a shared computer in a household that the victim shares with the perpetrator. In such cases, use of these platforms may expose victim/survivors to risk (if perpetrators view a victim on a video call, or sees the video conferencing app downloaded, for example). This risk may be partially avoided in the case of encrypted web-based video conferencing software that does not require clients to download apps to their devices.

Communication apps	
Examples	Messenger , Whatsapp , WeChat , Slack
User	Victim/survivors (to access relevant services).
Benefits	Allows for remote contact between stakeholders.
Drawbacks	Accessibility – Requires access to a device and internet.
	Accessibility – Requires tech literacy.

Email	
User	Victim/survivors (to correspond with legal service).
	Lawyers (to correspond with/send documentation to victim/survivors).
Benefits	Allows documentation to be sent electronically, meaning victim/survivors do not need to physically visit community legal services.
Drawbacks	Accessibility – Requires access to a device and internet.
	Accessibility – Requires tech literacy.
	Emails may leave a paper trail discoverable by the perpetrator. Perpetrators may also intercept or redirect emails.

Phone interpreting services	
Description	Interpreting services provided by phone.
Examples	TIS National
User	Service providers (lawyers, courts, etc.) engaging with victim/survivors with whom there are language barriers.
Benefits	Allows for interpreting services to be provided remotely.
Drawbacks	Accessibility – Requires all parties to have a phone.
	Cost – interpretation services are not free of charge.
	Remoteness of interpreter may slow communication between stakeholders (particularly if other stakeholders are already communicating via phone/videoconferencing software).

Mobile devices	
Description	Hardware (mobile phones/tablets/laptops) enabling all stakeholders to access the various software, online resources, and communication technologies outlined in this document.
User	All stakeholders (victim/survivors, lawyers, courts).
Benefits	Mobile devices allow victim/survivors to access resources and support services outside the home environment (whereas such resources/support services may not be accessible at home if the perpetrator is there).
Drawbacks	Where mobile devices are shared with the perpetrator, the victim runs the risk of the perpetrator discovering their search history/call log/private messages.
	Many mobile devices are GPS-enabled, meaning perpetrators may be able to locate victim/survivors.
	Perpetrators may install spy software, enabling them to access all keystrokes made on the device, including email correspondence, web surfing, and communication.
	Cost – mobile devices are expensive.
	Accessibility – mobile devices require users to be tech literate.

CATEGORY II DIGITAL LEGAL RESOURCES

Interactive web resources	
Description	Websites and apps with legal and non-legal information re: family violence that engage with users via chatbots, legal artificial intelligence, or decision trees (i.e., a series of questions that navigate a user through the website)
Examples	Hello CASS – chatbot that guides users through information on family and sexual violence, and available counselling and legal services.
	rAInbow – chatbot for women at risk of family violence and abuse in relationships.
	Federal Circuit and Family Court of Australia Family DOORS Triage risk screening and case management tool
	WhatTheFamily?! App – helps users identify early signs of family violence.
User	Victim/survivors seeking information (not advice) re: family violence.
Benefits	Quick exit functionality
	May be accessed at any time (whereas lawyers are only available during business hours).
	Comfort – can be accessed from home/other familiar location.
	Remote – regional/remote/rural victim/survivors are not disadvantaged (whereas they may be disadvantaged if required to attend in-person services).
	Some chatbots are accessed online, avoiding the need to download apps that may be discovered by perpetrators.
Drawbacks	Accessibility – Requires access to a device and internet.
	Accessibility – Requires tech literacy.
	Accessibility – potential language barriers if resources are only provided in English.

	Bots can only provide information, rather than advice – unable to replace a lawyer in this respect.
	Online resources leave a search history which may be discovered by perpetrators.

Non-interactive web resources	
Description	Websites and apps with legal and non-legal information re: family violence. Unlike interactive web resources (see previous table), non-interactive web resources require the user to navigate the resource themselves.
Examples	Magistrates' Court of Victoria family violence website
	LawAccess NSW family violence resources
	Orange Door family violence FAQs
	Rainbow Door – specialised family violence information for LGBTQ+ persons experience family violence
	Family Violence Law Help
	Family Relationships Online family violence resources
	Women's Legal Service Victoria family violence information
	Ask LOIS – free online legal information for community workers responding to women with legal needs.
Safe+Equal – includes resources for victim/survivors and resources for professionals working in the family violence space, including online training and professional development courses.	
User	Victim/survivors seeking information (not advice) re: family violence.
	Lawyers/support workers seeking information on family violence-related legal processes.
Benefits	Quick exit functionality
	May be accessed at any time (whereas lawyers are only available during business hours).
	Comfort – can be accessed from home/other familiar location.

	Remote – regional/remote/rural victim/survivors are not disadvantaged (whereas they may be disadvantaged if required to attend in-person services).
Drawbacks	Accessibility – Requires access to a device and internet.
	Accessibility – Requires tech literacy.
	Accessibility – potential language barriers if resources are only provided in English.
	Online resources leave a search history which may be discovered by perpetrators.

Live chat platforms

Description	Tools allowing victim/survivors of family violence to chat in real-time with trained family violence experts / legal professionals – may be for the provision of relevant information or legal advice.
Examples	Safe Steps live web chat (live help from family violence professionals)
	Victoria Legal Aid live web chat
	1800RESPECT 24-hour live web chat
User	Victim/survivors seeking information/advice re: family violence.
Benefits	Quick exit functionality
	Whereas bots and non-interactive websites can only provide legal information, live chats may enable the provision of legal <i>advice</i> .
	24-hour support (some services only)
	Discrete – lack of face-to-face contact may reduce anxiety, shame and power imbalance that may be involved with face-to-face appointments.
	Comfort – can be accessed from home/other familiar location.
	Remote – regional/remote/rural victim/survivors are not disadvantaged (whereas they may be disadvantaged if required to attend in-person services).
Drawbacks	Accessibility – Requires access to a device and internet.

	Accessibility – Requires tech literacy.
	Accessibility – potential language barriers if resources are only provided in English.
	Online resources leave a search history which may be discovered by perpetrators

Digital service directories	
Description	Websites and apps with details of family violence service providers.
Examples	Law Institute of Victoria directory and referral service
	Daisy app
	Aurora app
	Orange Door locations and directory of after-hours services
	Safe+Equal directory
User	Victim/survivors seeking information re: family violence support services.
Benefits	Quick exit functionality
	May be accessed at any time (whereas lawyers are only available during business hours).
	Comfort – can be accessed from home/other familiar location.
	Remote – regional/remote/rural victim/survivors are not disadvantaged (whereas they may be disadvantaged if required to attend in-person services).
Drawbacks	Accessibility – Requires access to a device and internet.
	Accessibility – Requires tech literacy.
	Accessibility – potential language barriers if resources are only provided in English.
	Apps need to be downloaded and could be discovered by a perpetrator. Likewise, online resources leave a search history and could be discovered by a perpetrator.

Smart forms	
Description	Digital forms that allow users to generate their own legal documents (by guiding them through the process, using drop-down menus, etc.) without the assistance of a legal professional.
Examples	Magistrates' Court of Victoria Family Violence Intervention Order application tool and submission portal
User	Victim/survivors of family violence wanting to apply for a Family Violence Intervention Order without legal assistance.
	Lawyers can also complete these digital forms on a client's behalf.
Benefits	Enable victim/survivors to obtain a FVIO without legal representation.
Drawbacks	Accessibility – Requires access to a device and internet.
	Accessibility – Requires tech literacy.
	Accessibility – potential language barriers if resources are only provided in English.
	Online resources leave a search history which may be discovered by perpetrators

Family violence hotlines (legal & non-legal)	
Examples	Safe Steps 24-hour hotline – for women and child victim/survivors of family violence
	Victims of Crime helpline – for male victims of family violence
	MensLine Australia – for male victims of family violence
	KidsHelpline – for child victims family violence
	With Respect / Rainbow Door – specialist assistance for LGBTQ+ persons
	Sexual Assault Crisis 24-hour hotline
	No To Violence – helpline for perpetrators of family violence

	<p>1800RESPECT 24-hour hotline</p> <p>Victoria Legal Aid 'Legal Help' – legal assistance, available in several languages</p> <p>Australian Legal Advice hotline</p>
User	<p>Victim/survivors seeking information re: family violence support services, including emergency/crisis support.</p> <p>Perpetrators of family violence (some hotlines only)</p>
Benefits	<p>24-hour support</p> <p>Discrete – lack of face-to-face contact may reduce anxiety, shame and power imbalance that may be involved with face-to-face appointments.</p> <p>Comfort – can be accessed from home/other familiar location.</p> <p>Remote – regional/remote/rural victim/survivors are not disadvantaged (whereas they may be disadvantaged if required to attend in-person services).</p>
Drawbacks	<p>Accessibility – Requires access to a phone.</p> <p>Accessibility – potential language barriers if resources are only provided in English.</p> <p>A perpetrator may discover a victim's call history.</p> <p>Some hotlines are gender-specific – there are more hotlines for women facing family violence than for male victims. While this reflects the realities of family violence, it means male victims have less services available to them.</p>

CATEGORY III EVIDENCE COLLECTION

Evidence collection technologies	
Description	Apps which help victim/survivors collect evidence of family violence.
Examples	Arc app
	SmartSafe+ app
	DocuSAFE Evidence Collection
User	Victim/survivors
Benefits	Collection of evidence may be used to support subsequent family violence-related proceedings.
Drawbacks	App may be discovered by a perpetrator, potentially putting the victim at risk.
	Accessibility – Requires access to a device and internet.
	Accessibility – Requires tech literacy.
	Accessibility – potential language barriers if app is only in English.

CATEGORY IV VIRTUAL LAW FIRMS

Client intake forms	
Description	By asking users a series of questions, these automated forms help identify a potential client’s legal issue(s) and direct them to the appropriate division within the legal service, streamlining the intake process.
Examples	Lander & Rogers (law firm) family law client intake form
	Justice Connect (community legal service) intake form
User	Victim/survivors (front-end)
	Legal service providers (back-end)
Benefits	Streamlines the intake process, allowing victim/survivors to get access to legal services more quickly.
Drawbacks	May leave a search history which may be discovered by perpetrators.
	Accessibility – Requires access to a device and internet.
	Accessibility – Requires tech literacy.
	Accessibility – potential language barriers if forms only in English.

Electronic file management	
Description	Digital files containing client documentation.
User	Legal service providers
Benefits	Digital files are easily transferable (e.g., via email), unlikely to get lost, accessible by multiple persons at once, and secure.
Drawbacks	Digital files may be subject to hacking (from a perpetrator), exposing a family violence victim’s private information.

Electronic discovery (‘e-discovery’)

Description	Electronic version of discovery – the legal process by which information/documentation is requested from one party by the other.
User	Victims/victims’ lawyer & perpetrators/perpetrators’ lawyer
Benefits	Potentially speeds up the discovery process
Drawbacks	

Digital signatures

Description	Allows for documents to be formally signed both privately and securely, without the need for a physical signature.
Examples	DocuSign
User	Victim/survivors
Benefits	Allows for signatures to be completed remotely (i.e., without a client at the lawyer’s premises). Assists clients with disabilities to sign legal documents.
Drawbacks	

Cloud computing

Description	Storage of digital files on the ‘Cloud’.
User	Law firms
Benefits	Efficiency – read more here
Drawbacks	Security – read more here

Social media

Description	Legal and other support services may maintain a virtual presence on popular social media sites (Twitter, Facebook, etc.).
Examples	Victoria Legal Aid Twitter

	Family Safety Victoria Twitter
User	Legal and other support service providers (back-end)
	Victim/survivors (front-end)
Benefits	Increased visibility of family violence support services.
	Increased awareness of family violence among the wider community.
Drawbacks	Accessing these pages/platforms may leave a search history, discoverable by perpetrators of family violence.

CATEGORY V VIRTUAL COURTS

Digital courtrooms	
Description	Online court; remote participation in physical court
Examples	Webex (Magistrates' Court)
	Microsoft Teams (Family Court)
User	Victim; alleged perpetrator; legal representatives; court
Benefits	Allows parties to attend court remotely.
	Remote attendance means victim/survivors do not need to face alleged perpetrators in-person.
	Comfort – can be accessed from home/other familiar location.
	Remote – regional/remote/rural victim/survivors are not disadvantaged (whereas they may be disadvantaged if required to attend in-person services).
	All parties are on-screen, making it difficult for perpetrators to continue non-verbal abuse/control of victim/survivors (because this is in full view to judges/lawyers).
Drawbacks	Accessibility – Requires access to a device and internet.
	Accessibility – Requires tech literacy.
	Remote court attendance may lead to victim/survivors feeling as though their concerns are not being properly heard by magistrates.
	Time constraints (10 minutes for hearings in virtual Magistrates' Court) may result in less-than-optimum case outcomes.

Electronic document filing	
Description	Platforms, generally on court websites, allowing for the digital submission of applications.
Example	Magistrates' Court of Victoria Family Violence Intervention Order application tool and submission portal – allows for family violence intervention order applications to be made online.

User	Victim/survivors of family violence
	Lawyers lodging applications/court documents on behalf of victim/survivors
Benefits	Speeds up the application process
	Avoids the need to physically attend court to lodge the application – may reduce stress/anxiety of attending court.
Drawbacks	Accessibility – Requires access to a device and internet.
	Accessibility – Requires tech literacy.
	Accessibility – potential language barriers if filing portals only in English.

Online dispute resolution platforms	
Description	Online mediation
Examples	Victoria Legal Aid online and phone family dispute resolution (during COVID)
	Family Resolve online dispute resolution
	Monash Lawyer Assisted Family Dispute Resolution Clinic (all mediations run via Zoom)
User	Victim/survivors; perpetrators; lawyers; mediators
Benefits	Allows parties to attend court remotely.
	Remote attendance means victim/survivors do not need to face alleged perpetrators in-person. In some cases, parties may be separated into separate Zoom rooms with mediators shuttling between them, meaning victim/survivors do not need to see the perpetrator at all.
	Comfort – can be accessed from home/other familiar location.
	Remote – regional/remote/rural victim/survivors are not disadvantaged (whereas they may be disadvantaged if required to attend in-person services).
	All parties are on-screen, making it difficult for perpetrators to continue non-verbal abuse/control of victim/survivors (because this is in full view to judges/lawyers).

Drawbacks	Accessibility – Requires access to a device and internet.
	Accessibility – Requires tech literacy.

Case management tools	
Description	Apps/platforms that enable victim/survivors and stakeholders (police/lawyers/court staff) to manage ongoing family violence cases.
Examples	YourCase – an app with upcoming court dates, text notifications, and ‘what to expect’ resources for victim/survivors who have applied for a family violence intervention order.
	Wise Messenger – platform for lawyers, court administrators, and other legal professionals to automatically send text messages to clients to remind them of upcoming court dates, meetings, etc.
User	Victim/survivors / lawyers / court administrators
Benefits	Centralises case-related information, taking pressure off victim/survivors going through the legal system.
Drawbacks	Accessibility – Requires access to a device and internet.
	Accessibility – Requires tech literacy.

CATEGORY VI FAMILY VIOLENCE PREVENTION TECHNOLOGIES

Safety watches	
Description	Watches that connect victim/survivors of family violence to support services in crisis situations. By pressing a button on the watch, victim alert support services that they need assistance; the watch sends the victim's GPS signal to the support services; and the microphone in the watch allows support services to hear what is unfolding and respond accordingly.
Examples	StandbyU Watch
User	Victim/survivors of family violence
Benefits	Discrete – looks like a normal watch.
Drawbacks	Expensive

Emergency service notification	
Description	Apps that discretely notify emergency services (i.e., without needing to make a phone call)
Examples	ALERTCOPS app (Spain only)
User	Victim/survivors
Benefits	Discrete
Drawbacks	App may be discovered by perpetrators, potentially putting victim/survivors at risk.

Monitoring devices	
Description	Monitoring devices (e.g., ankle bracelets) can be used to track a perpetrator's whereabouts.
User	Police (to track perpetrators)
Benefits	Can prevent future family violence
Drawbacks	Technological limitations raise concern as to the reliability of monitoring devices.

Parenting communication apps	
Description	Despite a history of family violence, separated parents may need to continue communicate re: shared children. In this case, parenting communication apps provide a safe space in which communication can be contained.
Examples	See here for list of examples.
User	Victim/survivors and perpetrators.
Benefits	Some apps monitor for abusive language/incessant messaging and withhold these messages from being sent.
	Some apps record messages, which may be used as evidence of abuse where necessary.
Drawbacks	While these apps are a safe space for communication, apps cannot prevent perpetrators from contacting/harassing/abusing victims/survivors on other platforms (text/email/social media).
	Cost – some apps are paid.

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