

3.5. Family violence claims and Division 1.5

3.5.1. Types of family violence

Family violence is any conduct that causes a person to fear for their, or their family's, safety and wellbeing. It can be directed at a person, their children, their family, friends, pets or property.

Definitions of family violence differ across Australian Government legislation, including the [Migration Regulations 1994](#) and the [Family Law Act 1975 \(Cth\)](#) (the Family Law Act). Under section 4AB of the Family Law Act, family violence is defined as 'violent, threatening or other behaviour by a person that coerces or controls a family member, or causes the family member to be fearful'.

In assessing claims of family violence, decision makers must assess 'relevant family violence' in accordance with the Migration Regulations, outlined in [Definition of 'relevant family violence'](#).

Family violence is often used interchangeably with domestic violence, family and domestic violence, domestic and family violence, and other terms.

Coercive control is almost always an underpinning dynamic of family violence. Coercive control involves perpetrators using abusive behaviours, such as those described below, in a cyclic pattern over time in a way that creates and maintains power and dominance over another person or persons. Perpetrators may use physical or non-physical abusive behaviours, or a combination of both.

Information on coercive control, including the [National Principles to Address Coercive Control in Family and Domestic Violence](#), which set out a shared understanding of the common features and impacts of coercive control, can be found on the Attorney-General's Department website.

Examples of family violence include (but are not limited to):

3.5.1.1. Physical abuse

Physical abuse is any violent behaviour or threats of violence. It can be directed at a person, their children, their family, friends, pets or property. This can include:

- hitting, punching, pulling by the hair, choking, pinching, pushing, stabbing or restraining in any way (physical injuries are often directed at parts of the body that other people will not see)
- using weapons or threatening to use weapons leading to fear for physical safety
- causing damage to property
- not allowing sleep, food, or medication.

3.5.1.2. Sexual abuse

Sexual abuse is unwanted sexual activity. This can include:

- force to have unwanted intercourse (either with a partner or other people)
- force to engage in sexual practices or acts the person is not comfortable with (either with a partner or other people)
- force to wear clothes the person is not comfortable with
- force to watch unwanted sexual acts, including on digital devices
- threats to send or upload private intimate photos to others, the internet or social media.

3.5.1.3. Verbal or emotional abuse

Emotional abuse is behaviour intended to make a person feel worthless, powerless or put down. This can include:

- threats to life, or that of family or pets
- abusive or insulting name calling, or names that are culturally offensive
- harassing or threatening a person
- saying things to deliberately cause fear, for example, saying that the children must live with the alleged perpetrator if the alleged victim leaves
- deliberately undermining a parent in front of their children
- threats with respect to immigration status and/or potential removal from Australia (see also [Immigration abuse](#))
- gaslighting, that is, manipulating someone using psychological methods into questioning their own sanity or powers of reasoning
- coercive control, that is patterns of behaviour that seek to isolate, manipulate and control everyday life.

3.5.1.4. Social abuse

Social abuse is behaviour intended to socially isolate a person. This can include:

- insults in public and in front of family, friends or other community members intended to humiliate a person
- preventing attendance at family and social gatherings or community events
- preventing access to support services such as community organisations, programs and/or services
- lying to others about a person
- isolation, including
 - isolating a person from their support network, including their family, friends and community, such as by discouraging or preventing the person from spending time with them
 - supervising activities or not allowing solo activities, such as doctor's visits or leaving the house alone
 - controlling all aspects of a person's life such that they are unable to have a life outside the home

- technology facilitated abuse, that is, using technology to track and monitor movements, social interactions, devices, social media and other technology
- cultural or spiritual abuse, including forced participation or isolation from culture and faith.

3.5.1.5. Financial abuse

Financial abuse is behaviour that limits a person's access to money. This can include:

- controlling money to ensure financial dependence on the perpetrator
- forcing a person to apply for and/or sign loans or contracts
- questioning about purchases made or where money is spent
- only giving money for purchases agreed to or requiring receipts or proof of purchases for items
- using joint finances for personal use against a person's wishes or without their knowledge
- incurring debts which the other person is also responsible for without their consent or knowledge
- incurring fines or debts in a persons' name, such as speeding, toll road or parking fines
- not allowing a person to work so they can have an income of their own
- dowry-related abuse, including claiming that dowry was not paid or making demands for further money or gifts.

A note on dowry abuse

'Dowry' is a practice referring to money, property or gifts that, in some cultures, are typically transferred by a woman's family to her husband upon marriage. The use of dowry in itself is not a form of abuse.

However, any act of coercion, violence or harassment associated with the giving or receiving of dowry at any time before, during or after marriage is a form of abuse. Dowry-related abuse commonly involves claims that dowry was not paid and coercive demands for further money or gifts from a woman and her extended family.

3.5.1.6. Immigration abuse

Immigration abuse is the use of somebody's visa status to control their behaviour. Immigration abuse is rarely standalone, and is often used as a barrier to reporting or escaping from other types of family violence.

Immigration abuse is often a part of family violence experienced by alleged victims reliant on alleged perpetrators in order to remain in Australia, and can be one of the defining reasons victims remain in abusive relationships rather than risk having their visa status jeopardised and/or losing their children.

Immigration abuse can include:

- threats to have the alleged victim's visa cancelled, and/or removal from Australia, if they do not comply with the alleged perpetrator's demands

- threats to the alleged victim's visa pathway, including alleging to the Department or others that they are only claiming family violence to obtain a visa (for example), including threats to withdraw, or actually withdrawing, sponsorship
- telling the alleged victim that they cannot leave the relationship or they will be removed from Australia (or similar consequences)
- threats of separation from children of the relationship, particularly in the event children are residents or citizens, because the alleged victim will not be allowed to remain in Australia.

It should be noted that threats to immigration status, and fear of what will happen to them and/or any children, may result in an alleged victim remaining in the relationship, leaving and returning to the relationship several times, and/or result in the alleged victim not notifying the Department, or seeking assistance from service providers, for an extended period of time.

3.5.2. Recognising intersectionality

3.5.2.1. What is intersectionality in relation to family violence?

Intersectionality is the interconnected nature of social categorisations that can lead to different forms of vulnerability and examining how they overlap and interact to create complex experiences of family violence. This can be by understanding how one person's gender, race, ability, sexuality, age, class or immigration status (or a combination of all these things) makes the disadvantage that they experience different to another person's.

For example, a 2021 study by Monash University indicated that one in three migrant and refugee women had experienced family violence, with temporary visa holders consistently reporting proportionately higher levels of family violence, including controlling behaviours. Information on the study is published in [Migrant and Refugee Women in Australia: The Safety and Security Study](#).

Family violence victims from certain backgrounds may find it more challenging to provide evidence to support their claims, both of the genuineness of their relationship with the alleged perpetrator and their experience with family violence, because of intersecting vulnerabilities.

3.5.2.2. Members of the LGBTIQ+ community

Decision makers are encouraged to remain up to date with reliable research on specific family violence risks applicable to lesbian, gay, bisexual, transgender/transsexual, intersex and queer/questioning (LGBTIQ+) people. A good example is the research undertaken by Our Watch, and published in [Primary prevention of family violence against people from LGBTIQ communities](#).

In addition to the well-documented types of physical, sexual, psychological, financial and other types of family violence that are relevant to all victims of family violence, the following abuse tactics have been identified as specific to LGBTIQ+ people:

- threats to 'out' or reveal the alleged victim's sexual orientation
- targeting or questioning the alleged victim's sexuality, gender or biological sex
- questioning the alleged victim's 'true' sexual orientation and coercing them to 'prove' their sexual orientation
- using heteronormative stigmas to stop disclosure of family violence
- threatening to disclose health related issues, such as HIV status
- withholding medical treatment for trans/gender diverse persons
- ridiculing or disrespecting gender status
- demanding the alleged victim present as a certain gender, including treatments to look more 'male' or 'female'
- misgendering the alleged victim (for example intentionally using the wrong pronouns)
- making threats related to custody of, or relationships with, the alleged victim's children, based on their sexual orientation or gender identity

Members of the LGBTIQ+ community may face challenges providing evidence of the abuse including:

- there may be a lack of available corroborating evidence
- the alleged victim may have chosen not to declare or deliberately hidden their sexuality or gender identity
- internalised homophobia and the impact it can have on an alleged victims's mental health, which can significantly impact their ability or willingness to freely express their claims.

Decision makers must be mindful of any potential biases that they may bring when assessing claims from LGBTIQ+ people. For example, it should not be assumed that a person's sexual orientation or gender identity is a lifestyle choice, or that individuals who identify as bisexual can choose to be attracted to either men or women.

3.5.2.3. Males

There are no official statistics on how many men experience violence and abuse in their relationships, but according to the [Department of Communities and Justice \(NSW\)](#) it could be as many as one in three.

There remains a stigma around being a male victim of family violence, particularly for heterosexual male victims who have experienced family violence by a female perpetrator. Men often do not report abuse by women because they feel embarrassed or think that they will not be believed if they report it. This can result in challenges providing evidence, or a clear narrative of the abuse.

Decision makers must be mindful of any potential biases that they may bring when assessing family violence claims of male alleged victims, particularly around the view that only women and children can be victims of family violence.

3.5.2.4. Sex workers

Workers in the sex industry are no less vulnerable to family violence than workers in other industries, and are often more vulnerable, due to the nature of their work. Social stigma against sex workers may also make them reluctant to seek help.

Decision makers must be mindful of any potential biases that they may bring when assessing family violence claims of sex workers. Working in the sex industry should not be considered an indicator that the relationship between the alleged victim and the alleged perpetrator was not genuine, or that family violence has not occurred.

3.5.3. Sensitivities when assessing timelines in an abusive relationship (and why alleged victims may choose to stay)

Decision makers must be aware of the range of reasons an alleged victim will stay with the alleged perpetrator, or why they may leave and then return to the relationship, sometimes multiple times. There have been numerous studies that show that the most dangerous time for a victim of family violence is immediately before and after they leave the relationship. Information on why victims choose to stay in a violent relationship has been published by the [National Coalition against Domestic Violence](#), which includes a study showing that either threats of separation by their partner or actual separation are most often the precipitating events that lead to the murder of the leaving partner.

When assessing family violence claims, particularly in relation to timelines used to determine the end date of the relationship and whether the family violence occurred during the relationship, decision makers should be cognisant of the complex nature of abusive relationships.

- It is not unusual for an alleged victim of family violence to make several attempts to leave the relationship.
- It is not unusual for an alleged victim of family violence to maintain contact with, or return to, the alleged perpetrator.
- It is not unusual for the most serious acts of family violence to occur after a relationship ends, as an escalation from a dynamic of abuse during the relationship.
- An alleged victim will often remain in love with the alleged perpetrator, and hope their behaviour will change.
- An alleged victim's self worth and confidence can be eroded from the abuse and control of the perpetrator to the extent that they believe they cannot live independently of the perpetrator.
- Alleged victims with children may find it particularly difficult to leave, and to completely break ties, due to the availability and costs of housing and child care, lack of support/community ties, the need to carefully 'plan' their departure, cultural stigma, threats from the alleged perpetrator to harm the children, and guilt around separating the children from their other parent.
- Dates of the end of the relationship may not always be clear. Trauma can lead to inconsistencies in memory, and there can be confusion as to when the relationship officially ended.

The above issues should not suggest that family violence did not occur, or that the alleged victim was not reasonably fearful or apprehensive about their own wellbeing or safety.