"It couldn't have come at a better time"

MABELS

EARLY INTERVENTION FAMILY VIOLENCE LEGAL ASSISTANCE

eastern community legal centre

Acknowledgements

MABELS is a partnership between Eastern Community Legal Centre (ECLC), Boorndawan Willam Aboriginal Healing Service (BWAHS) and two Victorian local government councils.

The two Victorian local government council partners have generously elected not to be named in this report, in order to protect the confidentiality of the MABELS Program. Whilst they remain unidentified, ECLC and the partnership wishes to formally acknowledge their immense contribution in establishing MABELS and ensuring its continued success.

MABELS has received significant funding from the Victorian Legal Services Board + Commissioner through the Legal Services Board Grants Program as well as additional funding contributions from the Phyllis Connor Memorial Trust, DHHS (Indigenous) Community Initiative Grant and partner councils. Each of the MABELS partners have made significant in-kind contributions to the project.

MABELS worked closely with Eastern Domestic Violence Service (EDVOS) as an important and active partner from its commencement until May 2017, when it chose to withdraw from the partnership, while continuing to provide some services for a time. The Partnership acknowledges EDVOS's extensive contribution through this period.

The MABELS Partnership would also like to acknowledge the support and guidance received from the many supporters of MABELS.

ECLC would like to acknowledge the continuous support of the partnership in the design and implementation of MABELS.

ECLC acknowledges the Wurundjeri people of the Kulin Nation, the traditional custodians of the land across ECLC's region. We pay our deep respects to the Elders, past, present and emerging.

Contents

“It couldn’t have come at a better time”

EARLY INTERVENTION FAMILY VIOLENCE LEGAL ASSISTANCE

7 ONE
Introduction

8 TWO
MABELS Program

16 THREE
Understanding early intervention within a legal setting

27 FOUR
Applying early intervention principles to legal service design

35 FIVE
Understanding and defining early intervention legal practice

38 SIX
Understanding and defining early intervention legal practice through the experience of MABELS

49 SEVEN
System reform

Executive Summary

Introduction

The concept of 'early intervention' in addressing and responding to family violence has attracted significant attention in recent years with governments and organisations seeking to find the most effective ways of reducing the harm resulting from family violence, offer safer pathways for women and children experiencing family violence and also addressing cultural and societal factors which may lead to family violence occurring in the first place.

In 2015 MABELS - a Health Justice Partnership (HJP) - was established as an innovative early intervention legal response to family violence. MABELS is a partnership between Eastern Community Legal Centre (ECLC), Boorndawan Willam Aboriginal Healing Service (BWAHS) and two Victorian local government councils, who have generously elected not to be named in this report in order to protect the confidentiality of the MABELS Program.

The 'vision' of the program is to provide an early intervention response to family violence within the Maternal and Child Health (MCH) context by improving the responses of MCH, legal, family violence and support services in a co-ordinated and integrated manner.

At a policy level MABELS is a best practice example, with potential to influence service models at state and national levels. The services represented in the Partnership and the strong governance model are consistent with best practice, integrated, early intervention family violence approaches. Subject to adjusting for the context and conditions of a particular organisational setting and ensuring the strong involvement of all partners in the design, the model is highly replicable.

This Report uses the experience, knowledge and skills developed through MABELS, especially through the voices and experiences of women who have engaged with the program, to demonstrate how integration can inform early intervention service design, enhance early intervention legal practice and guide system reform that supports this work.

Understanding and defining family violence early intervention

Through a literature review of how each of the health, family violence and legal sectors have defined early intervention, this report has been able to further understand and define what 'early intervention' means within a family violence context and how this may inform an early intervention legal assistance approach to family violence. Coming to a clearer definition of the exact nature of early intervention family violence legal assistance is essential in articulating the value of this response.

On the basis of this literature review and the learnings through MABELS, 'early intervention' within the family violence legal context in this report has been defined as follows:

"A specialised family violence legal response at a critical time in a woman's experience, earlier than she would otherwise access it, provided in a context where she is particularly likely to have existing or emerging family violence and legal needs and that aims to offer an intervention in the experience of the violence to limit or prevent further harm."

Executive Summary

Applying early intervention principles to legal service design

Through the design, implementation and evaluation of MABELS, the MABELS Partnership has not only gained a more thorough understanding of early intervention, but has identified the key guiding principles that should underpin the service design for an early intervention family violence legal program. Six key guiding principles have been identified.

EARLY INTERVENTION FAMILY VIOLENCE LEGAL SERVICE DESIGN Guiding Principles	
Guiding Principle 1	Establish a strong multidisciplinary partnership founded on shared values and goals.
Guiding Principle 2	Provide an integrated approach by working as part of an interdisciplinary team that includes healthcare professionals, specialist family violence advocates and lawyers.
Guiding Principle 3	Respect and empower a woman's self-determination by placing her and her rights at the core of all decision-making.
Guiding Principle 4	Ensure the service is based on a deep and informed understanding of the gendered and complex nature of family violence and aims to reduce the risk of harm to women and children.
Guiding Principle 5	Ensure that an intersectional analysis is applied in responding to the needs of women from diverse communities.
Guiding Principle 6	Incorporate evaluation processes in order to continually reflect, review and refine program design.

Understanding and defining early intervention legal practice through the experience of MABELS

MABELS has also shown that early intervention family violence legal assistance can be understood as much more than legal advice at an earlier time, but rather a 'specialised legal response' that is tailored to best meet the needs of women and children at an earlier stage of their experience.

Given that the time of separating from a violent partner can be one of the most dangerous times for a woman experiencing family violence[1], and that women who are pregnant or who are in the early stages of parenting are at an increased risk of experiencing family violence,[2] it is integral to early intervention that there is a specialised family violence legal response.

Through the experience of MABELS there have been some elements of legal practice that have been identified, developed and refined in order to more effectively and safely respond to the legal needs of women at an earlier stage of their experience of family violence.

Executive Summary

EARLY INTERVENTION FAMILY VIOLENCE LEGAL ASSISTANCE Practice Elements	
Practice Element 1	Develop strong relationships amongst practitioners based on shared understanding, trust and respect
Practice Element 2	Provide legal assistance that is informed by specialist family violence advice and with a cultural lens overlay
Practice Element 3	Ensure a thorough understanding of a woman's experience of family violence
Practice Element 4	Provide legal advice through a rights based empowerment framework
Practice Element 5	Provide legal appointments that are responsive and flexible
Practice Element 6	Provide evidence informed practice and practice informed evidence

System reform

MABELS clearly reflects the depth of knowledge, expertise and experience of the cross-sectoral, multidisciplinary collaboration of different professionals from the maternal and child health service, community legal centre and Aboriginal cultural and spiritual healing service. The shared knowledge, expertise and experience has not only led to the successful outcomes of the MABELS Program, but has provided the MABELS Partnership with shared expertise on early intervention family violence l egal assistance. This provides the MABELS partnership the opportunity to contribute this expertise to early intervention family violence legal assistance service design, best practice and policy reform.

Recommendations - Shared leadership and integrated funding

1 That the Victorian Government establish a shared leadership approach that facilitates the integration and collaboration of different sectors and agencies working to prevent, intervene early and respond to family violence.

2 That the Victorian Government establish cross departmental funding to adequately facilitate integrated models of practice.

Recommendations - Integrating legal assistance within early intervention family violence models

3 That the family violence reforms led by the Victorian Government recognise the value of integrating legal assistance as part of the broader systemic response to family violence.

4 That the Victorian Government ensure that legal assistance is expanded to be readily accessible as part of the prevention and early intervention to family violence.

5 That the Victorian Government recognise the value of empowering women with their legal rights and options as an integral function of the Support and Safety Hubs, known as The Orange Door.

Recommendation - Legal professional privilege

6 That the Victorian Government and the legal sector work collaboratively to provide clearer legislative guidance to address the potential conflicts in professional obligations that arise from interdisciplinary legal programs such as MABELS, particularly in relation to clients' right to legal professional privilege, information sharing and mandatory reporting.

1. Introduction

Introduction

The concept of 'early intervention' in addressing and responding to family violence has attracted significant attention in recent years. 'Early intervention' is appealing to governments and organisations as they seek to find the most effective ways of reducing the harm resulting from family violence, offer safer pathways for women and children experiencing family violence and also addressing cultural and societal factors which may lead to family violence occurring in the first place.

In 2015 MABELS a Health Justice Partnership (HJP) was established as an innovative early intervention legal response to family violence. The program provides women attending maternal and child health (MCH) services the opportunity to receive integrated family violence and related legal advice, safety planning, information and referrals, from a family violence lawyer and a family violence advocate. In addition, Aboriginal women are provided with the option of a specialised family violence service from an Aboriginal community controlled organisation.

Through the design, implementation and continuous evaluation of MABELS, the MABELS Partnership has had the opportunity to explore how MABELS as an early intervention legal program is able to best meet the needs of women experiencing family violence. As can be seen in the *Evaluation of the MABELS Project: Interim Report 2016, Evaluation of the MABELS Project: Final Report 2017* and *MABELS Changes Everything: Final Evaluation Report 2018,*

MABELS has clearly demonstrated that working in an integrated practice model with an early intervention focus does not only enhance outcomes for women and children experiencing family violence but also enhances the way organisations design and deliver their services.

The MABELS Partnership is eager to share these learnings and, in particular, contribute to the body of evidence on 'early intervention legal assistance' in responding to family violence.

This Report will use the experience, knowledge and skills developed through MABELS, especially through the voices and experiences of women who have engaged with the program, to demonstrate how integration can inform early intervention service design, enhance early intervention legal practice and guide system reform that supports this work.

It is important to note that for some women, MABELS is not an early intervention response and that they may have been experiencing family violence for an extended period of time, may be experiencing a crisis and may have already had periods of accessing the family violence service system. MABELS is able to provide a service at all stages of a woman's experience, however, this report will focus on the practice elements that are specific to early intervention legal practice.

It is also important to note that MABELS is focused specifically on intimate partner violence and to date the experience of the program has been confined to heterosexual relationships.

Through a literature review of 'early intervention', consultation with MABELS practitioners and the findings provided through the ongoing independent evaluation of MABELS conducted by Effective Change, this report seeks to:

1. Understand and define what 'early intervention' means within a family violence context and how this may inform an early intervention legal assistance approach to family violence.
2. Identify the key guiding principles that should underpin the service design for an early intervention family violence legal program.
3. Understand and define what 'early intervention legal practice' means within a family violence context.
4. Understand and define early intervention legal practice through the experience of MABELS and identify the key practice elements that are integral to a specialised early intervention family violence legal response.

two

2. MABELS Program

Vision

To provide an early intervention response to family violence within the Maternal and Child Health (MCH) context by improving the responses of MCH, legal, family violence and support services in a co-ordinated and integrated manner.

Objectives

The MABELS Program was established in early 2015 with three clear objectives:

1. Increase the capacity of MCH services to respond to women and children experiencing family violence.
2. Demonstrate a successful HJP model that focuses on early intervention in family violence.
3. Identify key learnings and recommendations to be considered for the prevention and early intervention of family violence for women and children through a HJP.

These objectives have continued with Enhancing MABELS, with strengthened emphasis on:

- the diversity of women experiencing family violence specifically Aboriginal women, women from culturally and linguistically diverse communities and young women
- the opportunity for earlier intervention by expanding and building the MABELS model within the antenatal services of local hospitals; and
- establishing an evidence base that identifies the value and best practice principles of 'early intervention family violence legal assistance'.

Establishment and Funding

In 2014 the MABELS 'Project' was developed and proposed as a partnership between Eastern Community Legal Centre (ECLC) as the lead agency, Eastern Domestic Violence Service (EDVOS) and two Victorian local government councils. Additional support is provided by Women's Legal Service Victoria (WLSV) when women are legally conflicted from receiving a service from ECLC.

The Victorian Legal Services Board Grants Program and the Phyllis Connor Memorial Trust provided two-year funding and the MABELS Project was established and commenced in early 2015.

In September 2015 (with funding from a Department of Health and Human Services Indigenous Community Initiatives Grant) this partnership was expanded to include Boorndawan Willam Aboriginal Healing Service (BWAHS). In 2016 MABELS received further two-year funding from the Victorian Legal Services Board Grants Program and in 2016 and 2017 further funding from DHHS Indigenous Community Initiatives Grant.

In March 2018 EDVOS withdrew from the MABELS Partnership, at which time ECLC employed a specialist Family Violence Advocate in order to preserve the integrity of the model as a family violence legal program.

2. MABELS Program

MABELS Model Theory

Research has shown that 'Women are more likely to talk to someone they know about their experience of partner violence than they are to tell police or staff at a specialised agency'[3]. Apart from friends or family members, health professionals are identified as the main group to whom women want to disclose violence.[4] This means that if legal services and information can be made available within the healthcare setting, it should follow that women are more likely to access those services or information than if the healthcare service simply referred the woman to a site elsewhere. This was the motivation for designing MABELS as a HJP.

One of the specific terms of reference of the Victorian Royal Commission into Family Violence (RCFV) was to 'improve early intervention so as to identify and protect those at risk of family violence and prevent the escalation of family violence'[5], with the RCFV focusing extensively on the intersection with universal services, primarily health services. [6]

The RCFV Report acknowledged the ideal placement of the MCH service in early intervention:

'The transition to parenthood is a time when women are particularly vulnerable to violence, with family violence often starting or increasing at this time. As MCH services see nearly every Victorian family after the birth of a child, they are a key setting for identifying and responding to family violence.

The Royal Commission heard that maternal and child health nurses often receive the first disclosure of family violence' [7] and specifically referenced the MABELS model, while maintaining its confidentiality.[8]

The almost universal engagement with the MCH service by new mothers in Victoria, means that there are multiple points in time in the period between a child's birth and the time they start school at which a mother is known to be making contact with the service. Each of these visits presents an opportunity for preliminary assessment of possible family violence risk and therefore opportunities for information-sharing and referral by the nurse.[9]

The evaluation of MABELS has confirmed that the MCH service provides 'the ideal platform from which to reach all mothers. The trust and respect of the community also fortuitously means that it is a safe and discreet location and that the suspicion of partners or family members' is not raised when a woman attends an appointment at this benign venue.'[10]

2. MABELS Program

Family Violence Statistics and Health Consequences

It is widely understood that women who are pregnant or who are in the early stages of parenting are at an increased risk of experiencing family violence:

- Among Australian women who had experienced violence by a current partner in 2016, 18% experienced violence during pregnancy. For women who experienced violence by a former partner, this figure was 48%. [11]
- Of the Australian women who had experienced violence from a current partner and had children in their care, 50% stated that the children had seen or heard the violence. For women who experienced violence by a former partner, this figure was 68%.[12]
- For 25% of women who experienced violence by a previous partner during pregnancy, the violence occurred for the first time when they were pregnant.[13]
- Indigenous women are at greater risk of experiencing domestic and family violence during pregnancy.[14]

- 1 in 12 women who were hospitalised for partner violence were pregnant.[15]

More than 1 in 4 mothers experience family violence in the first four years after having their first child. [16]

- Almost 40% of women who experienced physical and emotional abuse in the first 12 months reported depressive symptoms in the year after childbirth, compared with 12% of women who did not experience abuse by an intimate partner. [17]
- Women experiencing family violence are twice as likely to give birth to a baby with a low birthweight (<2,500 grams). [18]
- Babies born with a low birthweight and/or small for gestational age are at higher risk of developing a range of chronic conditions such as diabetes and hypertension earlier in their life span than babies born in the normal weight range.[19]
- Children whose mothers experienced family violence in the first 12 months postpartum were more likely to have emotional and/or behavioural difficulties at age four. [20]
- Family violence is associated with increased rates of miscarriage, low birth rate, premature birth, foetal injury and foetal death.[21]

2. MABELS Program

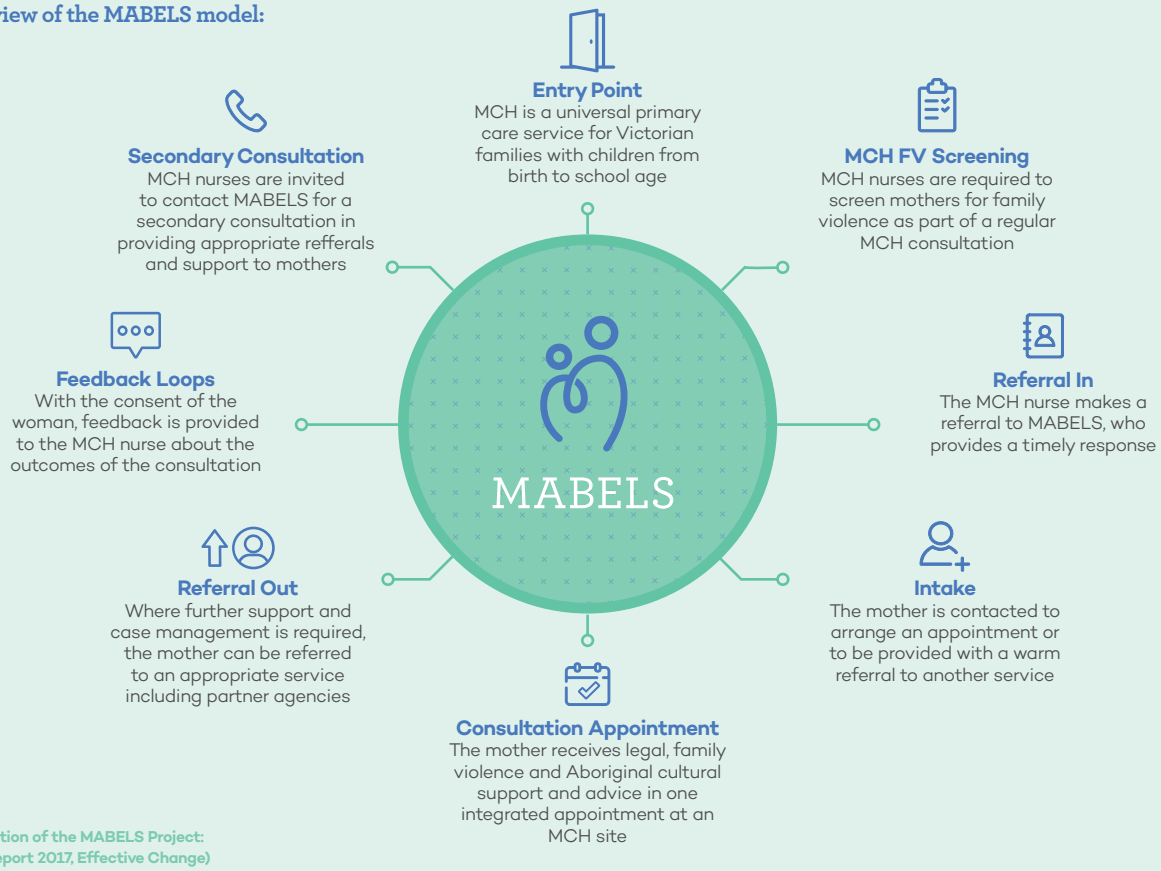
72% *of women indicated they would not have or might not had made an appointment with a lawyer if not for MABELS.*

The MABELS Model

MABELS family violence legal clinics are integrated into the MCH service at selected sites in two local government areas to assist and empower women who disclose family violence to MCH nurses. The clinics integrate a family violence lawyer and a family violence advocate within the MCH service to provide women with trauma-informed family violence and related legal advice, safety planning, information and referrals in the same appointment. In addition to the legal and specialist family violence services, Aboriginal women are provided with the option of a specialist family violence service from an Aboriginal community controlled organisation.[22]

Referrals to MABELS are made by the MCH nurses at the time of their appointment with a woman and the family violence lawyer attempts to make contact with the woman within 3 business days. The referral and intake process has been designed to reduce the onus on the woman to seek and engage with an unknown service at an unknown location and the clinics are based in safe, familiar and child-friendly spaces. At intake, the woman is provided with the option of seeing either the family violence lawyer, the family violence advocate, or both in the one appointment. At this point, the woman is advised of the different roles and professional skills of the family violence lawyer and the family violence advocate as well as the potential benefits of having two different professionals working collaboratively. The woman is also made aware of the different professional responsibilities of each profession, including the possible implications on her right to legal professional privilege that the traditional lawyer-client relationship attracts. The woman is given a choice as to the type of service that she would like to receive based on her own assessment of her needs.

The following diagram provides an overview of the MABELS model:



(Evaluation of the MABELS Project: Final Report 2017, Effective Change)

2. MABELS Program

Support for Aboriginal women and children

The MABELS Partnership includes BWAHS, an Aboriginal Community Controlled Organisation that offers a culturally safe family violence response for Aboriginal women seeking assistance through MABELS.

By developing and implementing effective strategies tailored to the needs of Aboriginal women and mothers of Aboriginal children, MABELS aims to provide an intervention to the disproportionately high impact of family violence on Aboriginal women and children.

The MABELS Partnership recognised that while overall engagement with MCH services is very high, this was not consistent with the Aboriginal community's engagement, including in the MABELS catchment. Hence alternative strategies needed to be implemented to provide an early intervention response to family violence in Aboriginal families. Taking these considerations into account, the partnership with BWAHS has enabled MABELS to provide specific targeted responses:

- At an individual level: where an Aboriginal mother or mother of Aboriginal children accepts a referral into MABELS, they are offered the additional support of the Aboriginal Engagement & Liaison Worker. This role enhances the cultural safety of a MABELS appointment and provides the possibility of a culturally specific service response, including referral into BWAHS and other culturally appropriate services for ongoing support.
- At a direct service level: exploring ways to enhance the cultural safety of MCH services for Aboriginal families, including providing ongoing cultural awareness training for the nurses and MABELS practitioners, consulting with other services that are already providing similar services that have already taken steps to address cultural safety and developing initiatives to improve the cultural safety of the physical spaces at MCH sites.
- At a broader community level: developing relationships with other Aboriginal Community Controlled Organisations and other direct services for Aboriginal community in the region to help consult with and inform the MABELS Partnership on how to improve access to the MABELS Program and related services.

Support for culturally and linguistically diverse (CaLD) women and children

The MABELS Partnership also recognised the additional and distinct barriers for CaLD women and children in accessing family violence legal assistance. The MABELS Partnership through working alongside specialised agencies and programs has focused on strategies to ensure that CaLD women and children have access to information about family violence and the available services. By working with local council services, specialist settlement services and community leaders, MABELS has been able to offer women attending Supported Playgroups with information about family violence and referral to services such as MABELS by strengthening their engagement with their MCH nurse.

2. MABELS Program

MABELS Outcomes

After 3 years, on a pilot basis, MABELS has demonstrated that a HJP based within MCH services can be a highly effective model for early intervention for women and children experiencing family violence. Part of the reason that the MABELS model is so effective is that the universally accessed service of MCH provides a platform that can connect women with specialist early intervention family violence and legal support. In 2016, MABELS received the Victorian Early Years Award in the Creating Collaborative Community Partnerships category, providing state-wide recognition of its impact and positive outcomes.

In the year 2014-15, the MCH services of the 19 local government areas of the north eastern region of Victoria made 145 referrals for family violence. In the year 2015-16, MABELS received 146 referrals from the MCH services of the two MABELS municipalities alone.

MCH referrals to MABELS compared with referrals for family violence in other local government areas

12 month period 2014 – 2015	NE Region	Victoria
Referrals for domestic violence	145	481
12 month period 2015 – 2016	2 x MABELS LGA's	
Referrals to MABELS	149	

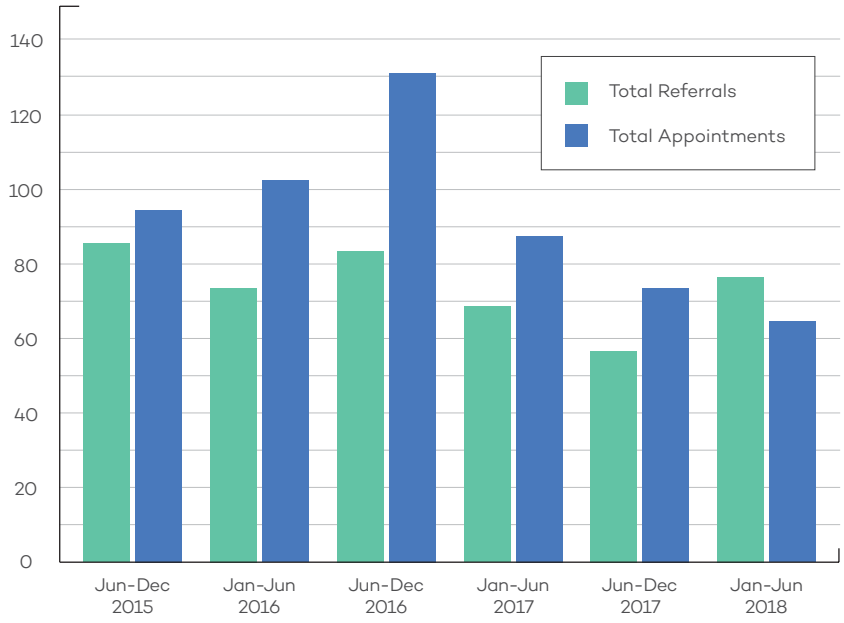
Between 1 June 2015 and 30 June 2018, 357 women have been referred into MABELS for assistance and over 430 children have been indirectly assisted. Of the women who have responded with feedback, 72% would not or might not have made an appointment with a lawyer had their MCH nurse not referred them to MABELS, and 88% said that being able to see the lawyer and family violence advocate together at the MCH clinic made it more possible for them to access the advice than if they had to access these services separately.

Over the 3 years that MABELS has been operational, the referrals and appointments from both local government areas have remained consistent. The total number of appointments demonstrate that women are engaging with the MABELS Program, often seeking multiple appointments.

2. MABELS Program

MABELS Referrals and appointments 2015 - 2018

	Jun - Dec 2015	Jan - Jun 2016	Jul - Dec 2016	Jan - Jun 2017	Jul - Dec 2017	Jan - Jun 2018
Total Referrals	86	74	84	69	57	77
Total Appointments	95	103	132	88	74	65



MABELS Evaluation

From the outset, Effective Change have been engaged to conduct independent evaluations. Each of the reports to date:

- *Evaluation of the MABELS Project: Interim Report 2016;*
- *Evaluation of the MABELS Project: Final Report 2017; and*
- *MABELS Changes Everything: Final Evaluation Report 2018*

made significant findings regarding the success of the program in providing women and children with access to specialised family violence information, support and advice.

The evaluation found that the MABELS model is highly effective because:

- 'it is an integrated family violence service response, embedded in a universal health service setting
- it is governed by an effective, equal and skilled partnership, guided by the principle of acting in the best interests of the safety of women and children
- it is consistent with the characteristics of best practice, early intervention family violence responses and the integrated service approaches recommended by the Royal Commission into Family Violence.'[23]

The evaluation went on to find that the model was highly significant because it:

- 'meets an identified service gap
- overcomes and addresses the barriers to MCH nurses undertaking screening for family violence
- provides an enhanced, efficient and effective response for clients which links them to a reliable, professional, multidisciplinary

2. MABELS Program

specialist team who can be consulted in the familiar, protective and child-friendly setting of the MCH centre

- is generating new knowledge and influencing policy
- is highly replicable, with contextualising and adaptation to new circumstances.'[24]

Notably, the evaluation emphasises that the MABELS model increases the capacity of MCH services to respond to women and children experiencing family violence. Confidence of MCH nurses in relation to family violence reportedly increased from 36% in February 2016 to 68% in December 2016. [25]

'MABELS has had a dramatic and enduring impact on the confidence of MCH nurses who report that through the partnership they are now:

- confident to ask clients about family violence
- confident to make referrals
- confident to respond to a disclosure
- confident to explain the consultation process to clients
- confident to follow-up with MABELS
- confident to seek a secondary consultation.' [26]

The elements of the model that have made the most impact for MCH nurses and their capacity to respond to family violence have been the creation of direct referral pathways to specialist services, with a speedy response and a feedback loop.

"MABELS is just easy. I know that doesn't sound very sophisticated. But that's the heart of it. It's easy for nurses to refer and it's easy for families to attend. It's easy for everyone. It just works. And that is so different to the way it was before." (MCH Nurse Team Leader)

With its effective and efficient referral pathway, the model demonstrates that barriers to family violence screening in MCH are not simply due to a gap in knowledge but are symptomatic of a service system gap.[27]

As is noted in nurse feedback contained in Evaluation of the MABELS Project: Final Report 2017: '...prior to MABELS, family violence referrals were almost impossible to make. Inconsistency in expertise and interest in legal service, poor or delayed access to legal consultation, and no link between legal services and family violence support and case management, meant that referrals were often ineffective, and always difficult to sell to clients'.[28]

At a policy level MABELS is a best practice example, with potential to influence service models at state and national levels.

The services represented in the Partnership and the strong governance model are consistent with best practice, integrated, early intervention family violence approaches.

Subject to adjusting for the context and conditions of a particular organisational setting, and ensuring the strong involvement of all partners in the design, the model is highly replicable.

three

3. Understanding early intervention within a legal setting

Through a literature review of how each of the health, family violence and legal sectors have defined early intervention, this report seeks to further understand and define what 'early intervention' means within a family violence context and how this may inform an early intervention legal assistance approach to family violence.

Health sector

The public health model aims to prevent a problem before it occurs. It is a '....model that attempts to prevent or reduce a particular illness or social problem in a population by identifying risk indicators...and by targeting policies and interventions at the known risk indicators for the problem, quickly identifying and responding to problems if they do occur, and minimising the long-term effects of the problems.'[29]

Preventative interventions are described as either primary, secondary, or tertiary interventions in the model of public health disease prevention.[30] These different interventions may have some overlap, but generally speaking, the work done within the primary and secondary spheres has greater capacity for a collaborative and interdisciplinary approach, rather than work in the tertiary sphere. For example, work in the health promotion space within the primary prevention sphere might incorporate education, social marketing, legislation and regulation. [31] These activities are more likely to involve expertise from different disciplines and a collaborative effort to reach a broad and diverse population in various ways. On the other hand, a response at the tertiary level (eg. responding to a medical emergency) will necessarily require much less of a collaborative effort, and instead the response required involves an expert utilising their expertise to respond to the emergency (eg. surgeon responding to a patient experiencing a heart attack).

The RCFV Final Report emphasised the importance of the health sector in responding to family violence, with the commission acknowledging that, 'Health professionals have a powerful role in responding to family violence.

An empathic response from a trusted doctor, nurse, midwife or other care provider that emphasises the perpetrator's responsibility, reinforces a woman's entitlement to a healthy relationship, encourages her to believe that a better life is possible, offers a range of options and respects her decisions is an important step in breaking down the sense of isolation that leaves women and children vulnerable to serious harm.

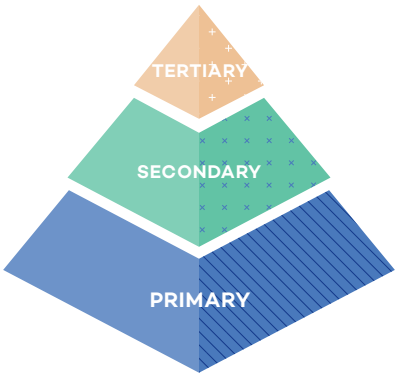
These interventions have the potential to be empowering, may contribute to enhanced health outcomes and are potentially lifesaving.'[32]

Since 2004, VicHealth has acknowledged and sought to respond to the significant health impacts on women from violence. Influenced by the public health disease prevention model, VicHealth has defined the various response levels to family violence from a health perspective as follows:

- intervention strategies – intervening after violence has occurred
- early intervention strategies – taking action on the early signs of violence (sometimes referred to as secondary prevention)
- primary prevention – preventing violence before it occurs

3. Understanding early intervention within a legal setting

These definitions may be represented in the following adaptation of the health pyramid:



Tertiary prevention or response
Supports survivors and holds perpetrators to account (and aims to prevent the recurrence of violence)

Secondary prevention or early intervention
Aims to 'change the trajectory' for individuals at higher-than-average risk of perpetrating or experiencing violence

Primary prevention
Whole-of-population inititives that address the primary ('first' or underlying) drivers of violence

Source: Our Watch

Although early intervention (or secondary prevention) is defined as aiming to 'change the trajectory' for individuals at higher than-average risk of perpetrating or experiencing violence, it is important to acknowledge that work in each of the above levels can cross over, due to the nature and impact of family violence.

Family violence sector

Defining 'early intervention' in addressing family violence has also been necessary for the family violence sector in designing appropriate service delivery. As Domestic Violence Victoria (DV Vic) observe in their post Family Violence Royal Commission report, reviewing early intervention family violence responses in universal health settings, 'A clear, shared definition of early intervention in family violence is critical to ensure that the roles and responsibilities of all services are well delineated and articulated. But the multi-layered nature and dynamics of family violence make early intervention a contested concept.' [33]

The report, 'Expanding Early Interventions in Family Violence in Victoria' (DV Vic Report) states that 'Family violence does not readily conform to the public health model of intervention. It is embedded in a complex interplay of individual, cultural and social factors. The cause of the violence, or pathogen, is the perpetrator, external to the victim who is seeking support. The trajectory of family violence is not linear. Women living with family violence may not seek help until their situation reaches crisis point; they may never seek help; they may leave and return to a violent partner multiple times; and they may not recognise or acknowledge that their experience is family violence.' [34]

Furthermore, the non-linear nature of family violence also suggests that a therapeutic intervention at the preliminary signs of an illness or in a child's development may not necessarily change or stop its trajectory and therefore an effective response to family violence needs to prioritise flexibility and accessibility in its response. As the DV Vic Report acknowledges, '[I]nterventions in family violence work when women receive the right response at the right time for them.' [35]

3. Understanding early intervention within a legal setting

OurWatch defines early intervention as follows: 'Approaches aiming to change behaviours or build skills of individuals or groups who are at risk, or exhibiting early signs, of perpetration or experience of violence against women.' [36] This approach aligns with the approach of the health sector in seeking to 'change the trajectory' for individuals at high risk of experiencing family violence.

The DV Vic Report takes a slightly broader approach to defining 'early intervention' in family violence as follows:

'Identification and support for individuals and families experiencing family violence with the aim of stopping early signs of violence escalating, preventing a recurrence of violence or reducing longer-term harm.' [37]

The above definition carries substantial authority in considering approaches to early intervention in this field, as DV Vic consulted 20 specialist family violence and women's services (in addition to a range of other organisations) in preparing the DV Vic Report.

Indeed, early intervention and response work 'can and do have important preventive effects: stopping early signs of violence from escalating, preventing a recurrence of violence, or reducing longer-term harm. They also provide the foundation stone of primary prevention, sending a society-wide message that violence is not acceptable, establishing perpetrator accountability, and protecting women and their children from further violence'.[38]

The DV Vic Report outlines the role of family violence practice as 'the use of a consistent, articulated practice framework in relation to women and children that combines:

- A gendered lens: an evidence based approach that understands that women are overwhelmingly the victims of family violence perpetrated by a male partner; power and control are the drivers of family violence, and this power is exercised in the form of coercive control as well as overt physical violence; and these behaviours are embedded in a complex web of individual, cultural, social and economic factors;
- Trauma-informed practice: This is a strengths based approach to understanding and responding to the impact of trauma on women and children. The need for physical, psychological and emotional safety of women and children is prioritised along with their need to establish a sense of control in their lives. It provides a safe environment, prioritises the woman's agency, and supports women and children to understand why they behave in particular ways, so that they are not blamed or pathologised for the ways they manage traumatic stress;

3. Understanding early intervention within a legal setting

- Attachment theory: practice that supports women to rebuild and repair secure attachment relationships with their infants and children that have been damaged by family violence'.[39]

The DV Vic Report goes on to define the role of a specialist family violence practitioner in early intervention as follows:

- Increasing family violence knowledge and practice through secondary consultations, co located workers, community workers and information provision
- First contact opportunities with women and children experiencing family violence
- Working with children and young people
- Place-based outreach to provide family violence support to women when and where they need it
- Delivering specialist targeted programs for groups at risk of family violence, including work with children, mothers and their children, at risk parents and culturally specific community-based programs.[40]

Of particular importance is the 'first contact' role and working with groups at risk of experiencing family violence: 'Specialist family violence workers use their knowledge and skills in these first contacts to initiate conversations and 'make the pathway' to information and supports.' [41]

The key finding of the DV Vic Report is that '...Specialist family violence practice should underpin all aspects of early intervention work'.[43] Furthermore, and importantly for the MABELS Program, which operates within a universal setting, 'To be effective, universal services engaging in early intervention in family violence must be supported by, and work with, specialist family violence services.' [44]

By ensuring that early intervention work in family violence is undertaken in conjunction with the expertise of specialist family violence practitioners, therefore, the DV Vic Report concludes that:

- 'The safety and well-being of the woman and her children is always the first priority
- The woman's understanding of her own situation and agency to make decisions is central
- Policy and practice is informed by an analysis of the gendered nature of family violence
- Perpetrators are held accountable and responsible for their violence.' [45]

This key finding points to a best practice early intervention legal response in the family violence context which is inextricably linked with specialist family violence support and advocacy. The DV Vic approach to early intervention aligns with the approach and philosophy underpinning MABELS.

The DV Vic Report specifically identifies MABELS as an early intervention response, recognising it as a service that works directly with a group of women, to '...link specialist ... workers with education services to provide early identification and responses, and build family violence capacity in those services....' [42]

3. Understanding early intervention within a legal setting

Legal assistance sector

Utilisation of the health sector framework, to varying degrees, has helped guide and frame interventions within the legal assistance sector. In their paper delivered in 2012 at the LSRC International Research Conference, Smith and Mitchell discuss whether established health promotion frameworks which have been used for a broad range of health problems and adapted to social issues with major health impacts such as family violence, can be adapted to a legal context.[46]

The paper argues for an application of the framework and outlines how two Community Legal Centres in Australia have developed and adapted the health promotion model to apply to key legal services across a continuum from tertiary prevention (direct services) to primary prevention (broad community interventions).[47]

The following table sets out an example of the legal assistance sector practice/interventions within a public health framework, in the context of family violence work within a community legal centre.: [48]

Tertiary Prevention	Secondary Prevention	Primary Prevention
Individuals Interventions ←		→ Population Interventions

Services	Information	Social Marketing	Capacity Building	Structural Change
Legal Advice Legal Casework Referral Services	Community Legal Education Fact Sheets Legal information Steps 2 Safety Video (Family Violence Intervention Order Process) Websites	Awareness Campaigns Law Reform Submissions Strategic Litigation	Community Development with local residents Family Violence Integration Project Training women to self-manage mediation sessions Skills transference	Major Law Reform Some partnership projects Human Rights Education in primary schools Tracking gender inequality Cultural Change

Source: Smith M & Mitchell S (2012)

3. Understanding early intervention within a legal setting

This work demonstrates an emerging picture of how 'early intervention' in the legal assistance sector might be defined. This comprises strategies and interventions that focus on raising awareness or understanding of warning signs and changing that initial behaviour, amongst those at risk in both broader populations or at an individual level.

The paper accordingly challenged the emerging use of the terms prevention and early intervention in legal assistance, as being potentially inconsistent with health and family violence sector understandings and hence problematic.[49]

The Law & Justice Foundation NSW (LJF) article 'Re-shaping legal assistance services: building on the evidence base' [50] (the first LJF article) reviews the notion of 'early intervention' as it has evolved in the national and international legal assistance discourse, and unpacks complex underlying assumptions and identifies tensions which underpin its use. This article is then cited and expanded upon in the article by Suzi Forell for the LJF, 'Is Early Intervention Timely?' [51] (the second LJF article) with both examining the benefits of early intervention, including an analysis of its meaning. The subject of these assumptions and underlying tensions, however not within the scope of this paper, are important as a background to understanding the authors' final formulations of the meaning of early intervention.

The meaning of 'early' in the legal assistance setting has been interpreted to include ...'notions of 'early': in processes, problems and lives:'[52]

- Early in terms of the legal process:
    - 'Early intervention is commonly conceptualised as a stage in the legal process, usually prior to formal court processes commencing.'[53]
- Early in terms of the emergence of the problem or social process:
    - '[A]ssistance provided early in the formation of a problem before it formally enters the legal domain. Advice about separation and divorce to people who are unhappy in their relationship or experiencing domestic violence is one example. ... Here 'early' refers to a stage within a social process, with the 'intervention' timed at a point where the issue could escalate into the legal domain for resolution.' [54]
- Early in terms of an individual's life span:
    - 'Early intervention has yet a broader interpretation, where it refers to intervention early in a life course to reduce the severity of impact of existing problems and to protect other problems from occurring'.[55] For example in the field of child development, 'developmental crime prevention strategies also aim to intervene early in the lives of 'at risk' children to prevent later offending.'[56]

The second LJF article analyses the challenges and problems inherently contained within the first, more limited, definition of 'early', determining that 'the value and impact of an intervention is not necessarily linked to its timing in the legal process ... [but] a more inclusive framework may better take this approach – and focus on the timeliness of assistance relative to experience of the client...'.[57]

3. Understanding early intervention within a legal setting

For example a problem that might be viewed by a community lawyer as early (when framed by the legal process) might not necessarily be early in a person's life, or indeed in their experience or emergence of that problem. As discussed in the DV Vic Report, unlike the legal process, family violence matters are not usually linear, nor do they necessarily have their genesis in a social concern that has begun to move into the legal domain.

This then gives weight to the argument that 'early' be understood as in the context of an individual's own life experience and its transition points, rather than through a legal process lens – such as prior to entering the justice system.

Alternatively, even through a social process or emerging problem lens, the problem may have been longstanding however help might now just be being sought, as '... among very disadvantaged people, problems may have long and complex histories, and unpredictable futures. This can make it difficult to identify when problems are at the 'early' stage and to disentangle legal issues from other issues.' [58]

Defining 'early' in relation to key transition points in the individual's life is arguably a more accurate way of describing the work of a lawyer seeking to provide early intervention in the area of family violence. This notion of 'early' follows on from 'LAW Survey findings that people are more vulnerable to different legal issues at different stages in life'[59] and that, '[l]egal service practices which aim to reach and assist disadvantaged clients at critical times recognise that transition points often trigger legal need.'[60]

Incorporating the focus of 'transition points' during a person's life, or even in the life of a problem, adds another dimension to the discussion on 'timeliness' of legal assistance. This approach would support the notion that early intervention legal assistance provides 'responsive and timely assistance at the time and in a place it is useful and ready to be used...'[61] This position is consistent with the arguments made in the DV Vic Report.[62]

This approach is also supported by the themes set out in the most recent National Partnership Agreement on Legal Services. In its preamble, it lists its first two aims as:

- seeking to 'improve the targeting of legal assistance services to people facing disadvantage who have the greatest legal needs, including people experiencing, or at risk of, family violence'[63]; and
- supporting 'a holistic approach to addressing legal need through collaboration with, and coordinated service delivery between, legal and non-legal sectors, including by delivering appropriate and timely services to best meet people's legal needs'. [64]

The value and influence of the holistic approach is evident in the expansion of HJP's in Australia. A HJP is a model of providing integrated services where the lawyer or legal service becomes part of the healthcare team, and people have access to legal services in health care settings.

3. Understanding early intervention within a legal setting

76% *of women said that the MCH nurse helped them understand they might have a legal problem or need legal advice.*

Through the integration of a legal service into a healthcare setting, a HJP is designed to break down barriers to accessible legal services for people experiencing health issues and to thereby bring about health benefits due to effective legal advocacy on behalf of patients.[65]

Furthermore, by connecting the issues identified through practice, HJP's are in the perfect position to advocate for systemic and policy reform.

Health Justice Australia, the national centre for HJPs in Australia, lists 38 HJPs across Australia, with 20 based in Victoria, including MABELS. In the context of early intervention, HJPs establish a connection between the health and legal services which is vital to providing access to individuals at key transition points in their lifetime. Furthermore, the health service may function to hold that individual through ongoing support so that they may access the legal service when they are ready.

Developments in the effective provision of legal assistance particularly within the context of family violence have urged the legal assistance sector to broaden its understanding of early intervention. Until quite recently the policy imperative of 'early intervention' in the legal sector seems to have largely been based on two tenets:

- preventing the escalation of matters through the legal system; and
- providing cost-effective justice options for a greater range of clients and issues.[66]

These two policy imperatives, whilst absolutely worthy, do not capture the full potential value of 'early intervention legal assistance' in the family violence response.

The cross-discipline perspectives that come from the HJP model facilitate a more holistic understanding of when legal services may be determined to be 'early intervention'.

In fact, the *Access to Justice Review* 2016 stated that 'Supporting practical access to justice means providing the right services, in the right places, at the right time, and in the right way.' It further stated that 'Services should also facilitate intervention in legal problems at the earliest appropriate point to minimise the effect of these problems on a person's wellbeing...'[67] Therefore, coming to a clearer definition of the exact nature of early intervention family violence legal assistance is essential in articulating the value of this response.

3. Understanding early intervention within a legal setting

MABELS approach to early intervention

It is important to explore how the elements of early intervention as identified by the health, family violence and legal sectors can be incorporated together with the learnings from the development of the MABELS model to define early intervention within the family violence legal context.

Changing the trajectory of family violence by intervention at a key transition point

A health-based framework characterises early intervention work as 'changing the trajectory' for those experiencing family violence or at highest risk of experiencing family violence. The legal sector directs us to the transition points in an individual's life to determine whether that intervention may be occurring 'early' relative to that person's legal experience.

As the experience of MABELS has shown, by locating legal assistance services alongside specialist family violence practitioners within a universal health service, there is an opportunity to focus on providing a timely response to a woman's legal and safety needs, rather than focusing on the woman's stage in the legal process. This approach aligns more with the 'transition point' definition of 'early' by offering legal advice at a critical time when women are at higher risk of experiencing family violence and might be identifying or disclosing family violence for the first time.

Prioritising flexibility and accessibility to provide services when they are useful and ready to be used

The family violence sector informs that it is crucial that a client-centred approach is taken so that women are receiving assistance that is tailored to them at the time that is right for them. This position is echoed by the legal sector which notes that the intervention is only useful if it is ready to be used by the individual.

"For me it couldn't have come at a better time. The information and support I received was really good, and really helped me through some dark days. I know it was one question that my MCH nurse had asked me, if she hadn't asked the question, I wouldn't have raised it. It was just something general like 'How are you doing?', but it made me realise it wasn't just about the baby." **(MABELS client)**

3. Understanding early intervention within a legal setting

85% *of women reported that they felt that they had options they did not know they had before MABELS.*

The service offered through MABELS through the integration with the universal MCH service ensures that whilst family violence legal assistance is offered at a key transition point in the woman's life, it need only be taken up if and when she is ready and wants it. The woman's ongoing engagement with the MCH service and the feedback loop that has been developed as part of the MABELS referral process supports the woman to remain connected with her nurse and provides her the option for re-referral in the future.

Reduction of harm

Building on the approach of the health sector, the specialist family violence sector's approach to early intervention provides a clearer idea of the purpose and potential impact of an early intervention legal response to family violence, being the prevention of further violence and reduction of future potential harm.

In the MABELS context, empowering a woman to access support and make informed decisions at an earlier point in time for herself and her child/ren is underpinned by a focus on the reduction of harm and offering an intervention into escalating violence. Through the collaboration with the MCH nurses and the opportunity for referrals to additional services, MABELS aligns with the health sectors focus on enhancing health outcomes. Furthermore, by offering 'accessible family violence legal and safety advice to women at a time and place which meets their needs alongside a focus on preventing children's exposure to violence' [68], MABELS also aligns with the family violence sector's definition of early intervention work relating to reduction of harm.

Early entry point into the service system

An additional distinction of the MABELS model from traditional legal practice is that through the platform of a universal health service, women may be being offered assistance before they would have sought that assistance for themselves. This arguably contributes to the definition of 'early' by providing women with an early access point to the service system.

Definition

On the basis of these elements and the learnings of the MABELS model, 'early intervention' within the family violence legal context may be defined as follows:

A specialised family violence legal response at a critical time in a woman's experience, earlier than she would otherwise access it, provided in a context where she is particularly likely to have existing or emerging family violence and legal needs and that aims to offer an intervention in the experience of the violence to limit or prevent further harm.

CASE STUDY

Sue

Sue had just separated from her husband days before she went to her baby's 8 week Key Age and Stage appointment with her MCH Nurse. Her nurse referred her straight into the MABELS Program.

Sue disclosed in her MABELS appointment that the separation had occurred following an incident where the police had been called. Before the police arrived, her husband had pushed Sue against the wall and put his hands around her throat. There were no visible injuries and Sue was too scared to disclose this to the police. The police took the situation to be nothing more than an argument, stayed whilst Sue took her belongings from the house and no further action was taken.

The family violence lawyer and family violence advocate both spoke to Sue about the option of a family violence intervention order. They acknowledged that she may not be ready for this action yet but provided her the information about her options if the situation was to continue or get worse, and confirmed that they could support her to make the application or make a further report to the police.

Sue accepted the offer of support by the family violence advocate to make a further report to the police. As a result of this report, the police applied successfully for an intervention order on her behalf. Once this was established, the family violence lawyer assisted Sue to request and prepare for mediation, at which a parenting agreement was reached.

4. Applying early intervention principles to service design for legal assistance

Through the design, implementation and evaluation of MABELS, the MABELS Partnership has not only gained a more thorough understanding of early intervention, but has identified the key guiding principles that should underpin the service design for an early intervention family violence legal program. Six key guiding principles have been identified.

Guiding Principle 1

Establish a strong multidisciplinary partnership founded on shared values and goals.

Shared values and goals

The MABELS partnership is a cross-sectoral, multidisciplinary collaboration of several organisations founded on shared values of transparency, trust, mutual respect and commitment to collaboration. Although the MABELS partners did not all have a history of working together, relationships were quickly established through a strong commitment to partnership in improving the service system response for women and children experiencing family violence through interdisciplinary practice. The MABELS Program is guided by a strong vision, clear objectives and shared goals that are mutually beneficial.

Strong governance

From the outset the MABELS partnership developed a robust governance structure which has provided the partnership with clear processes for effective communication, transparent decision-making, sharing expertise and strategy, co-ordinating resources and supporting integrated practice. As the lead agency, ECLC resources the management and co-ordination of MABELS ensuring that the program is working towards achieving its vision and objectives and resulting in improved outcomes for women and children.

The MABELS Partnership governance structure creates opportunities for all levels of management and direct service practitioners to form complementary, effective relationships.

As reported in the *Evaluation of the MABELS Project: Final Report* 2017[69], 'The MABELS partners identify that the partnership 'works' as a highly effective partnership because it is:

- an equal partnership of skilled partners involving senior managers of all agencies
- driven by the right partners, in the right place, at the right time
- focused on management and governance of the MABELS project, with dedicated management and coordination resources
- characterised by collaborative practice, effective communication and feedback
- flexible and adaptive
- guided by the principle of acting in the best interests of the safety of women and their children.'

Shared knowledge, expertise and experience

MABELS clearly reflects the depth of knowledge, expertise and experience of the cross-sectoral, multidisciplinary collaboration of different professionals from the maternal and child health service, community legal centre and Aboriginal cultural and spiritual healing service.

4. Applying early intervention principles to service design for legal assistance

88% *of women reported that they had a better understanding of what is considered to be family violence after the MABELS appointment.*

The shared knowledge, expertise and experience has not only led to the successful outcomes of the MABELS Program, but has provided the MABELS Partnership with shared expertise on early intervention family violence legal assistance. This provides the MABELS partnership the opportunity to contribute this expertise to early intervention family violence legal assistance service design, best practice and policy reform.

Guiding Principle 2

Provide an integrated approach by working as part of an interdisciplinary team that includes healthcare professionals, cultural support workers, specialist family violence advocates and community lawyers.

Early entry point to the family violence system

Integration with health care professionals provides the opportunity to offer assistance to individuals at a time that is meaningful to their lives. Through its integration with MCH Services, MABELS has been able to offer assistance to new mothers, at key transition points between their child's birth and the time they start school, being times in which new mothers are known to be making contact with the service.

Through existing relationships with their MCH nurses, women are provided with the opportunity to easily, quickly and safely access specialist family violence and legal support.

This streamlined referral pathway reduces the onus on the woman to seek family violence assistance, whilst the integrated family violence legal and safety support minimises the need for her to retell her story and reduces the risk of gaps in service responses.

It is through this integrated approach that MABELS has been able to provide women and children with culturally appropriate family violence legal assistance that is designed to be accessible at an earlier time and supports her to access the family violence service system.

Enhancing practice through an interdisciplinary approach

For early intervention family violence legal assistance to be effective, it not only needs to be accessible at an earlier time but it also needs to be tailored to the needs of women and children at an earlier stage of their experience.

"I did feel a lot better for speaking with MABELS. I wish I'd had that many years ago. I would have felt so much safer…The MCH nurse is who you are going to already. It's your time alone. He's not there so you have a chance to talk about it." **(MABELS client)**

4. Applying early intervention principles to service design for legal assistance

The integration and collaboration of different professionals including MCH nurses, cultural support workers, family violence advocates and community lawyers has been integral in establishing MABELS as an early intervention model.

Through the shared practice, knowledge and skills of different disciplines MABELS has been successful in providing family violence legal assistance that has been tailored to respond to the diverse needs of women and children and is meaningful to their experience.

Due to the nature and complexity of family violence, the success of an early intervention model is not necessarily dependent on prompting immediate action by a woman, but rather providing her with information, advice and support relevant to her and her child/ren and offering her a legal response that isn't simply comprised of options for legal causes of action.

In addition, by being able to provide culturally informed practical steps to stay safe alongside culturally informed practical advice on legal options, women can feel safer in embarking on a legal option. This wraparound nature of the MABELS model is therefore fundamental to the early intervention model.

The shared practice, knowledge and skills of the different disciplines has also been critical in overcoming the challenges of integrated practice.

Whilst there are notable benefits for the client in accessing services that are integrated, there are also challenges arising from this change to practice, especially in upholding the rights of women and children. Most significant is the potential conflict between the overriding professional obligations held separately by the services that have been integrated.

Whilst a lawyer is bound to protect the confidentiality of information obtained through communications with their client, nurses are subject to mandatory reporting requirements and family violence advocates hold an ethical responsibility to preserve the safety of children. The likelihood of these professional obligations coming into conflict within the MABELS context is high.

The shared commitment to finding solutions that place the woman and her child/ren at the centre of service design, whilst protecting the integrity of the legal framework has undoubtedly enhanced the MABELS model.

Capacity building through formal and informal opportunities

The integrated model has not only enhanced the early intervention family violence legal assistance that is provided to women and children but it has also enhanced the knowledge, skills, confidence and capacity of all the services and professionals involved. Formal professional development opportunities have been an important component of MABELS, created to provide the unique knowledge and skills necessary in providing an early intervention family violence legal program.

4. Applying early intervention principles to service design for legal assistance

The *Evaluation of the MABELS Project:* Final Report 2017 however also highlighted the value of opportunities for informal capacity-building that would naturally happen due to 'MABELS staff attending MCH team meetings, visiting MCH centres, secondary consultations, and collaborative work on committees or other forums such as conferences'.[70] These opportunities have not only been essential in building relationships, trust and rapport between all the practitioners but also in informing the service design and delivery of MABELS.

As one MCH Nurse Team Leader observed after just one year of MABELS' operation: *"There has been a shift in attitude and approach of nurses, particularly in the way they ask questions about family violence – it's more subtle, opening up discussions for examples [sic] in terms of relationship changes after the birth of a baby".* One of the MABELS Lawyers reported that: *"My ability to practise law in relation to family violence has been vastly enhanced by working alongside the family violence advocate who has enhanced my understanding of the safety implications of legal actions, and the nurses who have been able to teach me so much about the impacts of family violence on a child's development."*

Guiding Principle 3

Respect and empower a woman's agency of choice and self-determination by placing her and her rights at the core of all decision-making.

Women at the centre of service design

Designing a family violence legal program that holds women at the core of all decision-making ensures that women are empowered to make the decisions that are most meaningful to them.

The integrated MABELS model of a family violence lawyer and a family violence advocate working collaboratively offers women the opportunity to access information that empowers them to make decisions with their safety and the safety of their children as the central consideration, whilst also enabling them to make decisions about their legal options with a clearer legal strategy in mind.

Alternatively, women are also provided with the option of a 'lawyer only' MABELS appointment or the option of being referred to the local specialist family violence service. At this point, the woman is advised of the different roles and professional skills of the lawyer and the advocate as well as the potential benefits of having two different professionals working collaboratively. The woman is also made aware of the different professional responsibilities of each profession, including the possible implications on the legal professional privilege that the traditional lawyer-client relationship attracts. The woman is given a choice as to the type of service that she would like to receive based on her own assessment of her needs. This is a constant conversation during a woman's interactions with MABELS to ensure that the woman is continually informed of a potential conflict between the professional responsibilities of the practitioners and so that she can continue to make informed decisions about the service she is receiving.

4. Applying early intervention principles to service design for legal assistance

"You're vulnerable after you've had a child. You're tired, not sure of yourself. It was great to have [the lawyer and family violence advocate] linked in together. Hearing the same advice from two parties you trust meant it wasn't confusing. It gives you confidence that you're doing the right thing and reassurance that you're not going crazy."

(MABELS client)

A variety of options provided at an earlier point in time are more likely to provide an intervention that empowers women to make decisions that can change the trajectory of the family violence and can limit or prevent further harm.

Rights based approach

As an early intervention family violence legal program MABELS seeks to preserve the legal integrity of the program whilst ensuring that the program is designed to respond effectively and safely to the early intervention family violence legal needs of women. In accessing MABELS, women are primarily enquiring about their legal rights and the rights of their children as well as their legal options, however conversations are inextricably intertwined with their safety and the safety and their children.

In providing women with meaningful legal advice and legal options tailored to keeping them and their children safe, the MABELS model ensures that legal advice and options are fully informed by the potential safety implications. This has undoubtedly created a shift in legal practice and although assistance through MABELS is still focused on obvious areas of family violence and family law, the way in which this advice delivered is often more focused on offering women a suite of options focused on her rights and the rights of her child/ren.

By offering a legal response at an earlier point in time, legal assistance has the potential to empower women to engage with the legal system in seeking safety for themselves and their children.

"This is where the lawyer comes in with that expert advice which dispels all the fears that the mother might have about the legal side of things to do with the children and can give her a clear plan. And the family violence advocate is able to say, 'We can support you to do this... to leave that house.'" (MCH Nurse)

The Partnership's commitment to a rights based approach has also prioritised a strong evaluation component that prioritises the direct and independent feedback from women who have engaged with MABELS. This is discussed further in Key Guiding Principle 5.

4. Applying early intervention principles to service design for legal assistance

Guiding Principle 4

Ensure the service is based on a deep and informed understanding of the gendered and complex nature of family violence and aims to reduce the risk of harm to women and children.

A key finding of the DV Vic Report is that specialist family violence principles and practice should underpin all aspects of early intervention work. At a fundamental level the specialist family violence framework provides a deep understanding of the drivers of family violence, the various ways in which family violence is perpetrated and experienced and places this experience within a broader societal context. On a practical level, it ensures that the safety and well-being of women and children is always the highest priority.

Understanding and exploring the safety implications of legal advice and options has been identified as one of the most powerful elements of the MABELS model.

Access to specialised family violence support as part of a legal program provides women with practical options which may allow them to pursue their legal options in seeking safety at an earlier point in time than they might otherwise have accessed.

It also ensures that the family violence lawyer is able to reinforce a woman's right to autonomy and dignity by acting on their instructions, whilst the family violence advocate is able to focus on the best interests of a woman and her child/ren, empowering women to provide the lawyer with instructions informed by an assessment of their safety and the safety of their children.

> *"Having the SFVA [Specialist Family Violence Advocate] and the lawyer together was great because you could get a bit of back and forth…the SFVA can help the lawyer understand what the actual effect and dynamic of family violence is like… For them to be communicating to one another was fantastic".*
>
> **(MABELS client)**

Key Guiding Principle 5

Ensure that an intersectional analysis is applied in responding to the needs of women from diverse communities.

Applying an intersectional analysis is crucial in understanding and responding to the intersecting types of disadvantage and discrimination for people experiencing family violence and especially how it impacts their interactions with the legal system.

4. Applying early intervention principles to service design for legal assistance

Creating solutions that reduce the barriers to support for women who identify as Aboriginal or Torres Strait Islander, are culturally and linguistically diverse, experience a disability or for those who identify as lesbian, gay, bisexual, transgender, queer and intersex (LGBTQI) is critical in ensuring that opportunities for early intervention family violence legal assistance are accessible and responsive.

Aboriginal women and mothers of Aboriginal children

As noted in the RCFV report, 'One theme that came through strongly in the Commission's consultations was the importance of involving Aboriginal Community Controlled Organisations and tailoring justice system responses that recognise the history and culture of Aboriginal peoples.'

While the strength of the trusted relationship with the MCH nurse has been a key factor in the success of MABELS overall, it is important to note that rates of attendance at the MCH Service for Aboriginal children are lower than for the general population. This was identified in the Indigenous Family Violence Regional Action Plan and *Strong Culture, Strong Peoples, Strong Families, Towards a safer future for Indigenous families and communities 10 year plan.*[72]

As a key partner of MABELS, BWAHS has been able to guide the implementation of strategies to support the engagement of Aboriginal women and mothers of Aboriginal children. The integration of an Aboriginal Engagement & Liaison Worker has been critical in ensuring the cultural competency of the MABELS model not only by informing the design and implementation of the program but also through the formal and informal professional development opportunities that have been available to MABELS service providers, lawyers, family violence advocates and MCH nurses.

Through a range of strategies, MABELS aims to establish stronger links between Aboriginal community members and the MCH service increasing the opportunity for early intervention family violence legal support.

Women and children from culturally and linguistically diverse backgrounds

'Women from culturally and linguistically diverse (CaLD) backgrounds....are generally less likely than other groups of women to report cases of domestic and family violence.'[73]

4. Applying early intervention principles to service design for legal assistance

Implementing strategies to reduce the barriers for women and children from culturally and linguistically diverse backgrounds has been an emerging focus of the MABELS Partnership to increase the accessibility of the program. By consulting and working alongside specialised agencies and programs MABELS has been able to provide community members with information about accessing family violence legal assistance in a format that is accessible. The format of this information has been further informed by community leaders and the women who have been participants.

Guiding Principle 6

Incorporate evaluation processes in order to continually reflect, review and refine program design.

The independent evaluation of MABELS through Effective Change from the outset of the program has not only produced a number of Evaluation Reports that have explored and identified the successes and challenges of the program, but has helped inform and guide a range of evaluation processes that have been essential in informing program design.

Most importantly the evaluation processes have provided women supported through MABELS the opportunity to have their voices heard and for those voices to directly inform the development of the MABELS model.

It has also allowed MABELS to continually assess the impact and track the outcomes of the program, creating a strong evidence base for early intervention family violence legal program design and the delivery of early intervention family violence legal assistance.

EARLY INTERVENTION FAMILY VIOLENCE LEGAL SERVICE DESIGN
Guiding Principles

Guiding Principle 1	Establish a strong multidisciplinary partnership founded on shared values and goals.
Guiding Principle 2	Provide an integrated approach by working as part of an interdisciplinary team that includes healthcare professionals, specialist family violence advocates and lawyers.
Guiding Principle 3	Respect and empower a woman's self-determination by placing her and her rights at the core of all decision-making.
Guiding Principle 4	Ensure the service is based on a deep and informed understanding of the gendered and complex nature of family violence and aims to reduce the risk of harm to women and children.
Guiding Principle 5	Ensure that an intersectional analysis is applied in responding to the needs of women from diverse communities.
Guiding Principle 6	Incorporate evaluation processes in order to continually reflect, review and refine program design.

5. Understanding and defining early intervention legal practice

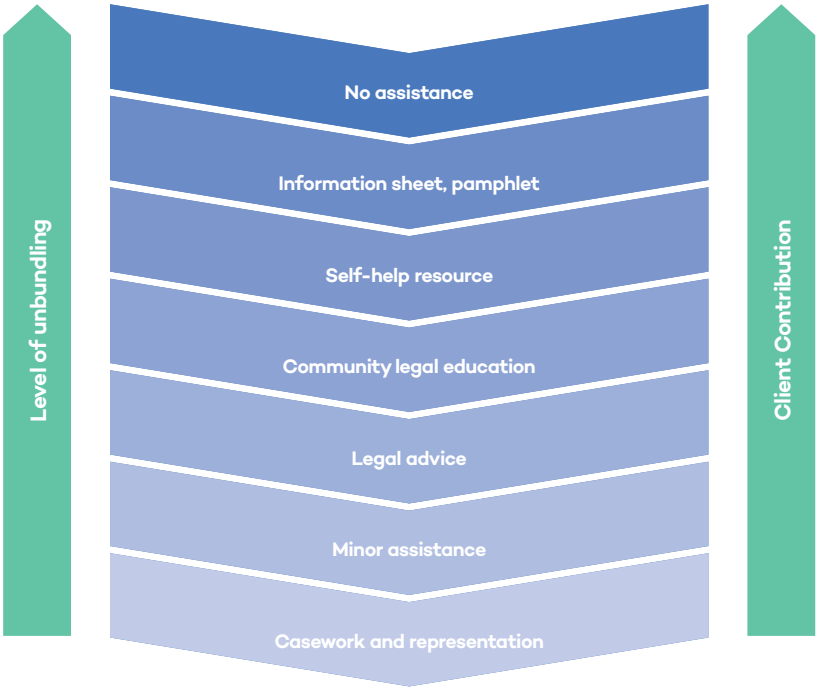
In defining early intervention within the legal assistance sector, it is important to understand what this looks like in practice. 'Early intervention' services in the legal assistance sector have been defined as 'legal advice, minor assistance and advocacy other than advocacy provided under a grant of legal assistance'.[74]

The Early Intervention Unit Duty Lawyer service at Legal Aid NSW considers 'early intervention lawyering' as having two key components:

- Assisting clients 'early in the life of their family law problem, particularly those who used the Family Law Courts as a first port of call. These clients were provided with advice and, where necessary, referred to alternative pathways to resolution as appropriate'.[75]
- Intervening 'early in the life of some legal processes, specifically at the point of filing when a new legal process was being commenced at court'.[76]

The evaluation of that duty lawyer program determined that 'Early intervention strategies in the legal assistance sector are usually less intensive, short intervention services, which provide partial assistance (advice, information and education), but rely on clients managing the problem.'[77] The client contribution to managing and problem solving the legal issue can vary greatly based on legal knowledge, knowledge of legal services, motivation to act, self-help skills and personal resources.[78] This is also referred to as 'unbundled' legal service provision and has been represented in a hierarchy from least level of assistance to most complex:

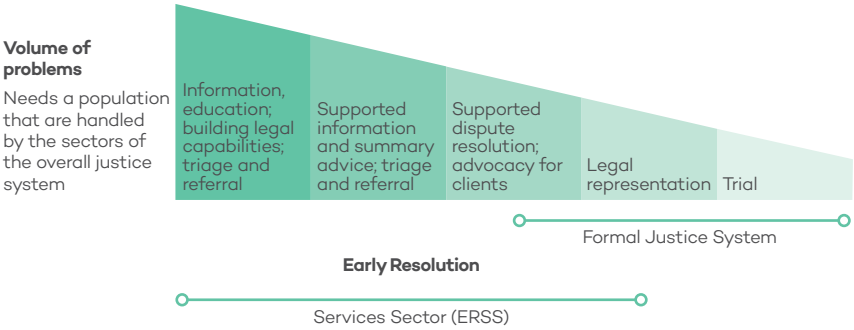
Ladder of unbundled legal services and client contribution to outcomes[79]



5. Understanding and defining early intervention legal practice

Similarly, Canada's 'Early Resolution Services Sector' (ERSS) aligns with the idea of 'unbundled' legal service provision, through which a range of early resolution (intervention) strategies might occur prior to a client engaging with the formal legal system. This is represented below:

Involvement of the ERSS and formal justice system in the overall volume of legal problems [80]



The Canadian approach defines early intervention as those 'services which are provided early in the progress of a legal issue, ideally prior to the formal legal processes. They also tend to be less intensive but widely available at the earliest stages, in order to 'catch' potential problems in the net as they are forming'.[81]

The above might go some way in defining an early intervention legal response, as both demonstrate how a lawyer might have an impact by providing triage, advice, information and referral when a client is either not yet engaged with the formal legal system but contemplating legal action or might be in the early stages of the legal process. However, as is contemplated by the LJF's analysis above, it is possible to contemplate a definition of 'early intervention' which comprises a more substantive and 'timely' response. Timely in this sense might refer to the ability to identify and respond to the client's legal needs at an earlier time, but also to the ability of the response to address the client's set of life circumstances or other needs arising out of their interaction with the service. This approach to early intervention recognises that the legal component might form just one aspect of an early intervention response. The response is tailored to address other aspects of the client's social situation which might have an impact on, or intersect with, the legal issues for the client. This might include a safety response where family violence is present, or a response which incorporates housing or welfare advice where homelessness is an issue or a risk.

In this context collaborative or interdisciplinary models can help to inform the definition of early intervention lawyering.

The Law Commission of Ontario undertook a study of various multidisciplinary models of family and children's service providers in Canada in 2010. The aim was to identify the value of the multidisciplinary model, in particular identifying the value offered to families by incorporating legal expertise as part of this model. In a paper discussing the findings of their study, key rationales for offering a multidisciplinary service model in providing family and children's services are outlined. The reasoning is as follows:

5. Understanding and defining early intervention legal practice

'Multidisciplinary teams of professionals create a problem-solving space that allows for the collaboration of individuals with diverse skill sets and multiple perspectives to address these clusters of problems... [These teams] reflect the complexity of the family problems they are designed to address.'[82]

In addition, '...because the family is not dealing with a series of individual professionals but rather a team working together, it is less likely that the remedies and solutions will overlap and be redundant.'[83]

Finally, '[i]nstead of retelling their stories again and again and shuttling from one place to another, these sort of teams offer families in Ontario a one-stop facility that they can rely on to identify their needs and address them.'[84]

The paper contended that failing to include legal expertise within a multidisciplinary family services team might constitute 'a type of barrier to justice.' [85] The reasoning is that 'without the collaboration the legal dimension of the issue may be invisible to both the person in need and the community at large.' [86] In considering why this interdisciplinary model is effective in the health and community-based setting, the paper contends that the high level of trust placed in health care providers tends to be transferred to legal service providers who collaborate with the health care workers who are already in a position of trust.[87]

The paper explores different examples of multidisciplinary partnerships in Canada which have incorporated a legal service component. They describe the legal service offering as 'low-level legal services'[88], demonstrating that the rationale behind the offering of legal services at this point in time is not necessarily to provide court representation or to assist in running a cause of action. Rather, having the lawyer available within the community or health setting as part of the team of professionals appears to be aimed more at assisting in identifying legal needs, offering a range of options for clients to consider, providing legal information, offering warm referrals or at offering some assistance in completing paperwork.

The DVU of Legal Aid NSW comprises a team of lawyers trained in trauma-informed practice, social workers and support staff. The unit provides:

- duty lawyer services at local courts to assist clients applying for Apprehended Domestic Violence Orders (ADVOs);
- legal advice clinics at community health centres;
- legal advice offered via phone/email/webcam; and
- community legal education and information. [89]

The majority of work in the DVU takes place at the duty lawyer service at local courts, with referrals received from the Court, police, and other lawyers within Legal Aid NSW. Therefore, the model is more aligned with the traditional legal sector perception of 'early' relating to the stage in the legal process. However, the DVU model also offers greater capacity to provide a more holistic response through locating clinics at community health centres and the capacity to facilitate warm referrals to social workers where the lawyer identifies a need for additional support for the client.

One recent example of an independently evaluated collaborative model in Australia is the Domestic Violence Unit (DVU) established within Legal Aid NSW which provides an interdisciplinary approach to supporting clients experiencing family violence. Whilst quite distinct from the MABELS model, it provides an example of how another program working in this field defines early intervention lawyering.

In the evaluation of the first 9 months of the DVU's operation, it was found that 'the DVU service was perceived as embracing a trauma-informed approach to service delivery, with processes in place to assess the client's risk of experiencing further violence and to provide safety planning, as needed, to reduce this risk' [90]. The evaluation went on to find the following benefits for clients: 'timely access to services and earlier intervention; a safer, more supported and empowering experience for clients; and more streamlined wraparound services to address the range of legal and non-legal needs experienced by clients' [91].

Duty lawyer services and legal assistance early in the legal process play a crucial role in responding to family violence. As the DVU example shows, additional support from a social worker and the ability to co-locate in a community health setting also demonstrate that such legal services can offer a more holistic response to clients and address additional needs in a more streamlined manner.

Indeed, this model comes closer to the LJF's approach to 'early intervention', in its attempt to offer a 'timely' response which is valuable because it is offered at a time and in a place that it is useful and ready to be used. As Forell notes, 'It is also important to recognise that the types of assistance required and the options for resolution may not be exclusively legal' [92] and that '[t]he balance and structure of legal and non-legal tasks in prevention and early legal intervention is far from straightforward, and will vary from case to case.' [93]

6. Understanding and defining early intervention legal practice through the experience of MABELS

Through the experience of MABELS there have been some elements of legal practice that have been identified, developed and refined in order to more effectively and safely respond to the legal needs of women at an earlier stage of their experience of family violence.

MABELS has shown that early intervention family violence legal assistance can be understood as much more than legal advice at an earlier time, but rather a 'specialised legal response' that is tailored to best meet the needs of women and children at an earlier stage of their experience.

It has also shown that early intervention family violence legal assistance has the potential to empower women to engage with the legal system in seeking safety for themselves and their children. Given that the time of separating from a violent partner can be one of the most dangerous times for a woman experiencing family violence [94], and that women who are pregnant or who are in the early stages of parenting are at an increased risk of experiencing family violence[95], it is integral to early intervention that there is a specialised family violence legal response.

Practice Element 1

Develop strong relationships amongst practitioners based on shared understanding, trust and respect

Invest time in building relationships at the practitioner level

MABELS is guided by a strong partnership amongst all levels of the partner organisations. This partnership is just as integral at the practitioner level between the family violence lawyers, family violence advocate and MCH nurses. Taking the time to develop relationships built on shared understanding trust and respect are crucial to the success of the legal practice. Investing time in building relationships at the practitioner level can include the family violence lawyer and family violence advocate attending the MABELS clinic site even in the absence of appointments being booked in, visiting nurses at MCH sites which are not regular MABELS clinic sites and actively networking (building professional relationships) before, during and after formal professional development activities.

Developing relationships built on a shared understanding, trust and respect also requires the practitioners to invest time in conversations that allow them to fully understand each other's roles and responsibilities. By adopting practices that create opportunities to understand potential conflicts between their differing obligations and workshopping potential solutions that respect the rights and needs of women and children, practitioners are able to ensure that they understand, trust and respect each other's roles. This learning and understanding definitely takes place through the integrated appointments, however adopting practice that requires practitioners to collaborate in preparing for client appointments and spending time after the appointment to debrief provides practitioners greater opportunity to be reflective rather than reactive.

6. Understanding and defining early intervention legal practice through the experience of MABELS

The strength of the MABELS Partnership was one of the findings highlighted in the Evaluation of the MABELS Project: Interim Report 2016:

'Tensions and conflicts around professional boundaries and practice is an expected challenge for health justice partnerships, based on the literature. This challenge has not emerged in the MABELS Project to date, and in fact, the absence of this challenge is the more significant finding.

'MCH nurses have reported through surveys and focus groups that they are 'relieved' to be able to refer to MABELS after a disclosure of family violence and MCH Team Leaders have validated this'.[96]

Ensure that relationships are built on mutual trust and respect

The universal health setting of the MCH service provides a unique opportunity to provide a specialised family violence legal response, but it is crucial to the success of the partnership that this platform is protected. The MCH service has a number of competing priorities in the overall wellbeing of women and children and ensuring that women and children remain engaged with the service is of paramount importance to the MCH nurses. Delivering a family violence legal program that respects the relationship between a woman and the MCH nurse and her engagement with the MCH service is essential to the success of the program.

The *Evaluation of the MABELS Project:* Final Report 2017 confirms the value of the integrated model in terms of offering access to a combined legal and family violence response within a universal health service: 'Previous studies have identified factors which inhibit MCH nurses undertaking mandatory screening for family violence, including lack of skills, knowledge and confidence; lack of clearly articulated referral pathways and lack of guidance for universal service providers … The MABELS model integrates a comprehensive formal and informal training approach for MCH nurses that assists skill and knowledge acquisition. However, the MCH nurses report that the greatest influence on improving their confidence levels is having a direct pathway to lawyers and family violence advocates, the speedy referral processes and feedback on referrals. Further, MCH nurses can reassure clients that they personally know the lawyer and the family violence advocate and can vouch for their professionalism, sensitivity and expertise.'[97]

Create opportunities for shared learning

Understanding and respecting the role and expertise of each of the services and disciplines is essential in knowing how to collaborate to respond to the family violence legal and safety needs of women and children. Part of the strength of the MABELS response is that the interdisciplinary team is physically integrated within the trusted environment of the MCH centre which allows greater opportunities for shared learning, however, practitioners also need to actively prioritise time for shared learning.

6. Understanding and defining early intervention legal practice through the experience of MABELS

88% *of women reported that being able to see the lawyer and the advocate at the MCH site made it more possible for them to access this advice than if they had to access these services separately.*

Much of this learning can take place through the interactions of the program such as through planning and debriefing around appointments, providing secondary consultations and by ensuring a robust feedback loop (with consent) with the MCH nurse through a woman's interaction with MABELS. Creating further opportunities for formal and informal professional development is also important to shared learning amongst practitioners. This can include the family violence lawyer and family violence advocate regularly attending MCH team meetings to present on requested topics or to answer questions, collaborating on joint initiatives for practice improvement and participating in conferences or events.

Practice Element 2

Provide legal assistance that is informed by specialist family violence advice and with a cultural lens overlay

Provide legal assistance informed by interdisciplinary collaboration

The MABELS model integrates a family violence lawyer and a family violence advocate to provide women with trauma informed family violence and related legal advice, safety planning, information and referrals in the same appointment. In addition, Aboriginal women and mothers of Aboriginal children are provided with the option of the Aboriginal Engagement and Liaison Worker from BWAHS attending the appointment. Women can also choose to have a 'lawyer only' MABELS appointment, although the majority of women choose the integrated approach.

The family violence lawyers and family violence advocate articulated the collaboration in terms of enabling each profession to support and enhance the advice of each other with their own professional perspective. As one MABELS lawyer described it, practitioners working in collaboration, albeit in a legal program need to be flexible in approach, and not just share the space with another practitioner, but feed off each other and be fluid in the delivery of the legal appointment. This can often mean that the provision of legal advice may happen later in an appointment after the family violence advocate and/or Aboriginal Engagement and Liaison Worker have supported the woman in telling her story. This interdisciplinary approach facilitates legal advice that is culturally informed, trauma informed, holistic and is responsive to the priorities of the woman and her child/ren.

Explore the dynamics of family violence through a gendered and trauma informed lens

For many women, attending a MABELS appointment may be the first time that they have ever spoken to a professional about their experience of family violence. In fact they may not have yet identified their experience as constituting family violence. Being able to explore techniques of power and control and discussing the gendered nature of family violence with a trauma-informed lens is made possible by the presence of the family violence advocate in these appointments.

The family violence lawyers and family violence advocate spoke about there often being a 'moment of realisation' for women in relation to their partner or ex-partner's patterns of controlling behaviour. This is even more important for Aboriginal women where it is important to recognise that there is a much higher likelihood of clients experiencing impacts of intergenerational trauma on their experience of family violence. The feedback from the MABELS practitioners suggests that this is

6. Understanding and defining early intervention legal practice through the experience of MABELS

100% *of women reported that they felt safer after their initial MABELS appointment.*

82% *of women said that the lawyer listened to them while they explained their situation and that they felt they could ask the lawyer any question.*

best facilitated in a truly integrated practice setting, where the woman feels adequately supported, has a sufficient level of trust in the practitioners, and has the space and time to explore and reflect on her experience.

Provide risk assessment and safety planning as part of the legal appointment

Even though MABELS is primarily a legal program, the MABELS appointment might be the first time a woman has fully disclosed her experience and her children's experience of family violence. It is integral therefore that her risk is appropriately assessed and managed as part of the legal advice and legal options provided.

While the MABELS family violence lawyers have appropriate training in responding to disclosures of family violence, lawyers cannot be expected to provide the same level of safety response as a family violence advocate who has comprehensive training and expertise in this field, nor carry the responsibility for all of a woman's legal, safety and cultural needs. The family violence lawyers also noted that having the family violence advocate or the Aboriginal Engagement and Liaison Worker present assisted a woman in being able to disclose more of her story which also ensures that the legal advice and options provided appropriately consider and address her safety needs.

Practice Element 3

Ensure a thorough understanding of a woman's experience of family violence

Take the time to listen to the whole story

MABELS family violence lawyers commented that in traditional legal appointments where a client has sought advice on family violence, they sometimes need to stop clients from providing certain information, either because it wasn't perceived as strictly relevant to resolving the legal issues at hand, or because there simply wasn't sufficient time in the appointment to delve into such detail. However, the trauma informed approach applied in MABELS appointments enables a woman to tell her story freely and comprehensively, therefore having a less 'fractured' experience.

MABELS family violence lawyers also identified that having the family violence advocate supporting a woman to tell her story comprehensively allowed for a more thorough understanding of a woman's experience of family violence and therefore they were able to provide more meaningful legal advice. The family violence advocate's skills in opening up the conversation about a woman's experience of family violence and being able to respond in a trauma informed way enables legal advice to be tailored more practically and as part of an overall safety strategy which is focused on the woman and her child/ren. Significantly, the evaluation of MABELS has found that for clients who are having to recount the trauma of family violence they have experienced, having to only tell their story once is a significant benefit of the MABELS model.[98]

6. Understanding and defining early intervention legal practice through the experience of MABELS

"It worked really well to see them together and that it was at the MCH centre. Made it easy." **(MABELS client)**

Let the woman set the pace

As a family violence legal program aimed at 'early intervention', women attending MABELS may experience many barriers in identifying their experience as family violence and seeking assistance.

Taking the time to hear a woman's story also allows the family violence lawyer and the family violence advocate to understand where she is at in her readiness to make decisions. A woman who is not yet at the stage of identifying her relationship as violent may not yet be ready to talk about separation as an option, but may be ready to hear what her legal options for staying safe within the relationship may be.

A woman attending her first MABELS appointment may also have not yet developed trust in the family violence lawyer and family violence advocate to fully disclose her experience of family violence. These conversations between the MABELS practitioners and the woman about the decisions she is ready to make may need to take place over the course of multiple appointments.

Practice Element 4

Provide legal advice through a rights based empowerment framework

Use an educative approach

If a woman is only starting to identify her relationship as family violence, she may also have not yet identified her legal needs. This shifts the way in which women present to a MABELS legal appointment compared to a traditional legal appointment and requires a shift in the way that MABELS family violence lawyers deliver legal information and advice.

The MABELS family violence lawyers have reported that often their advice takes on an educative framework of the legal rights of women and their children in seeking safety. The family violence lawyers spoke about this as an 'empowerment approach' to legal advice. This position has been confirmed by MCH nurses who have indicated that providing education to women experiencing family violence about the impacts of family violence on children is critical in helping a woman see her situation in a different light and take the first step towards getting help.[99]

CASE STUDY

Maria was referred to MABELS by her nurse during an MCH appointment. Her nurse had asked her questions around how things were going at home. Maria disclosed that she had noticed that her husband's behaviour had been changing since the birth of their child 6 months earlier. Maria wanted to accept the referral to MABELS but was fearful about how to justify her time away from the house to her husband to attend the appointment. Her nurse arranged to be present before the MABELS appointment to be able to take the baby's measurements, so that it appeared as though Maria was attending a typical MCH appointment.

At her first MABELS appointment, Maria explained to the family violence lawyer and family violence advocate that before the conversation with her nurse, she had never thought of her husband's behaviour as family violence.

The family violence lawyer and family violence advocate took time with Maria to unpack the behaviour she had been experiencing since the beginning of her relationship and the complex nature of family violence. Over the course of three appointments, further details were explored, and at the last appointment Maria felt comfortable to disclose the full extent of the violence that she was experiencing, explaining that she had not been able to tell anyone else this information.

The family violence advocate helped Maria develop a detailed safety plan, and the family violence lawyer spoke to Maria about her legal options, including reporting to police and applying for a family violence intervention order. Some time later, Maria got back in touch with MABELS and was able to obtain assistance to apply for an Intervention Order.

Maria

6. Understanding and defining early intervention legal practice through the experience of MABELS

91% *of women reported that they had the information they needed to take the next steps.*

79% *of women indicated that if they hadn't seen the lawyer and the advocate together they would not have understood their options as well.*

As one woman reflected on her experience with MABELS,

> *"Speaking with them gave me a lot of confidence, I felt like it gave me a voice, and my child a voice. It gave me an understanding of what to say, what my rights were and my child's rights were, by talking to them I understood how it works, I have a voice."*
>
> **(MABELS client)**

Provide a range of options

Although the legal advice that MABELS family violence lawyers provide is focused on obvious areas of family violence and family law, the way in which they deliver this advice is often more focused on offering a suite of options focused on the woman's legal rights and the rights of her child/ren. This compares with lawyer-only advice in a traditional legal appointment which is often more focused on responding to urgent legal needs such as advising on particular causes of legal action or the processes involved in responding to a court action. By offering a legal response at this point in time and in this context, lawyers are able to provide a woman with a greater level of choice as to how she would prefer to respond to her situation.

As well as a shift in how legal advice is communicated, MABELS family violence lawyers have also noted that the structure of the MABELS appointments have enabled the woman greater time and space to consider her options and empowered her to make more informed decisions, rather than responding to a legal crisis or urgent legal need. It also allows her the opportunity to seek advice and support over time without having to fear judgment about her choices. This is reflected in the responses provided by MABELS clients through the evaluation: 'Before their appointments, most women were unclear about their legal situation and what they would do next. Similarly after their appointments, the majority of respondents felt informed, safe and had a better understanding of their situation.'[100]

This empowerment aspect of legal advice is a key foundation of MABELS early intervention approach.

CASE STUDY

Kris

Kris was referred into MABELS by her MCH nurse after she reported ongoing concerns with her partner's behaviour. Kris and her partner had been in a de facto relationship for 8 years and have two children aged 2 and 5 together.

Kris reported that she felt guilty about coming to seek advice about her situation and was not ready to take any action, she just wanted to talk.

In going through her experience with the family violence lawyer and family violence advocate, it emerged that her partner often made Kris feel guilty about things. One time he told her that he had lost friendships because she had wanted him to stay home with the children when they were very little, and that he doesn't want her to return to work because she already isn't doing enough around the house. She felt he had also been too strong in his discipline of the children. The family violence lawyer spoke about the family violence and the family violence advocate explained the dynamics of control that were sitting behind those behaviours. The family violence lawyer provided Kris with advice including her rights in separation and child contact principles whilst the family violence advocate provided safety planning options.

Kris returned for a further appointment two months later. She said that she felt 'empowered' after her last appointment and had been trying to be protective of her children and stand up to her partner where safe to do so. She said that she hadn't decided yet whether she wanted to separate from her partner or take any other legal action. Kris accepted a referral for ongoing family violence counselling. She was also provided with some referral options she could share with her partner but he denied he needed any help and blamed Kris for the problems within the relationship.

Six months later, Kris got in contact with MABELS again and said that she wanted to start the process of separation. MABELS provided Kris with a referral to a lawyer who could help with both property and children's matters who she was happy with.

6. Understanding and defining early intervention legal practice through the experience of MABELS

Practice Element 5

Provide legal appointments that are responsive and flexible

Ensure that legal advice is responsive

As part of the referral process to MABELS the family violence lawyer is required to attempt to contact a woman within 3 business days of receiving the referral. As part of the intake process the family violence lawyer is able to identify any urgent legal needs and provide some initial advice over the phone. If the MCH nurse has an urgent referral, a MABELS team member can be contacted directly by phone to obtain an immediate secondary consultation as well as safety planning from the family violence advocate. The capacity to provide this quick response was a key factor in building the MCH nurses' trust in the program. Knowing that women would receive a timely response increased the MCH nurses' willingness to 'have the conversation' about family violence as they had confidence that they would have a safe place to refer women if necessary. Of course the MABELS response does not replace other referral pathways and women are still provided with a range of referrals to address their needs, such as referrals to crisis services, family violence services or legal services.

Provide longer appointment times

The integrated nature of the MABELS appointments and the way in which legal advice is provided requires a longer appointment time. Where a regular legal appointment may last for approximately 30-45 minutes, MABELS appointments are more likely to last for 1.5-2 hours. This is a critical factor in establishing rapport between the woman and the family violence lawyer, family violence advocate and potentially the Aboriginal Engagement and Liaison Worker. This longer appointment time enables the practitioners to obtain significant detail about the women's experience of family violence and to understand the extent of her safety concerns. This is a distinct difference to the regular legal appointments where the focus is usually on the most recent incident of violence as this is what will be most pertinent in an Intervention Order Application.

MABELS family violence lawyers commented that one of the most significant aspects of longer and more flexible appointment times is that it enables the woman to 'go at her own pace' in telling her story and in processing the legal and family violence support options available to them. The family violence lawyer is also more likely to have sufficient time to walk a woman through an online legal resource within the appointment, empowering her to independently follow up on her legal needs outside of the appointment.

Offer the opportunity for multiple advice appointments

Following their initial MABELS appointment, women have the ability to return for additional follow-up appointments as well as the ability to simply ask follow up questions over the phone. Women are provided with the family violence lawyer's direct mobile phone number and women are encouraged to text or call if they need to. This accessibility points to the responsiveness and flexibility of the program. Having the flexibility to offer multiple appointments ensures that the MABELS practitioners are able to allow the woman to move at her own pace and to tell her story

6. Understanding and defining early intervention legal practice through the experience of MABELS

comprehensively. It also enables women the opportunity to guide the service response by checking in with the family violence lawyer or family violence advocate about any next steps she may wish to take and discuss any change in circumstances and ongoing behaviour of the perpetrator. This can ensure that the early intervention response also ensures that women remain linked in with the family violence service system if their experience of violence escalates.

Practice Element 6

Provide evidence informed practice and practice informed evidence

Create opportunities for reflective practice

Both informal and formal structures that support reflective practice have been ingrained in the MABELS model from the outset amongst all levels of the MABELS Partnership. This has especially provided MABELS practitioners the opportunity to collectively and continuously develop the program in response to their direct service experiences. One lawyer noted that the integrated model is most effective, "when the lawyers and advocates were all working together from the MCH sites and would have regular meetings together to discuss how the program was operating and what could be done to improve".

This does not mean that the broad goals and structure of the program is constantly in flux, instead the program's day-to-day operation can be adaptive based on the practitioners' experiences.

It also ensures that the practitioners are not only ensuring that their practice is consistent with evidence based best practice but also that their practice is informing the evidence base.

Often opportunities for reflective practice can pose potential conflicts between the overriding professional obligations held by the different practitioners that have been integrated. By adopting processes that understand and work to prevent potential conflicts MABELS practitioners have been able to ensure that they are able to participate in opportunities for reflective practice whilst also maintaining their professional and ethical responsibilities to their clients.

6. Understanding and defining early intervention legal practice through the experience of MABELS

EARLY INTERVENTION FAMILY VIOLENCE LEGAL ASSISTANCE Practice Elements	
Practice Element 1	**Develop strong relationships amongst practitioners based on shared understanding, trust and respect** Invest time in building relationships at the practitioner level Ensure that relationships are built on mutual trust and respect Create opportunities for shared learning
Practice Element 2	**Provide legal assistance that is informed by specialist family violence advice and with a cultural lens overlay** Provide legal assistance informed by interdisciplinary collaboration Explore the dynamics of family violence through a gendered and trauma informed lens Provide risk assessment and safety planning as part of the legal appointment Build relationships and partnerships with Aboriginal Community Controlled organisations Build relationships and partnerships with cultural specialist Organisations
Practice Element 3	**Ensure a thorough understanding of a woman's experience of family violence** Take the time to listen to the whole story Let the woman set the pace
Practice Element 4	**Provide legal advice through a rights based empowerment framework** Use an educative approach Provide a range of options
Practice Element 5	**Provide legal appointments that are responsive and flexible** Ensure that legal advice is responsive Provide longer appointment times Offer the opportunity for multiple advice appointments
Practice element 6	**Incorporate evaluation processes in order to continually reflect, review and refine program design.** Create opportunities for reflective practice

7. System reform

Shared leadership and integrated funding

Within an expanding response to family violence, governments have been increasingly encouraged and willing to support the idea of collaborative models as well as models which provide an 'early intervention' response.

The RCFV Final Report confirms the value of supporting integrated approaches: "Closer relationships must be built between all the services that support victims of family violence. Agencies need to be active in co-locating and joining together with other agencies to provide services, and government should support them in doing so."[101]

"The Victorian Government must strengthen innovation in the development and implementation of family violence policy and foster collaboration between different service systems. ... Broadening responsibility for addressing family violence will require each sector or component part of the system to reinforce the work of others, to collaborate with and trust others, to understand the experience of family violence in all its forms, to look outwardly, and be open to new ideas and new solutions. Currently, different sectors and service systems operate according to distinct underlying principles, service delivery models and theoretical frameworks, which can create barriers to service integration, collaboration and innovation." [102]

The recent Victorian Access to Justice Review (2016)[103] also recommends governments offer support for more flexible and integrated responses, specifically:

"Recommendation 3.4 Supporting integrated service delivery

The Victorian and Commonwealth Governments should seek to identify ongoing funding for integrated services where there are demonstrated legal needs for tailored or targeted services to reach particular client groups. Such services require cross-portfolio co-ordination between justice and human services areas. Certainty of funding would help legal service providers build long-term collaborative relationships with non-legal service providers, and provide more effective services to vulnerable and disadvantaged members of the community.

The Victorian and Commonwealth Governments should seek to identify ongoing funding to proven programs that employ secondary consultation by non-legal workers, in order to improve the capacity of non-legal workers to identify legal problems, strengthen referral pathways, and expand the reach of legal assistance to people who would not otherwise access it."

The MABELS Program operates across a number of sectors and departments, including:

- Maternal and Child Health – with funding and policy based in Department of Education and Training
- Legal Assistance Sector – with funding and policy managed by Department of Justice and Regulation (DJR), Victoria Legal Aid and also the Commonwealth Attorney-General's Department
- Family Violence support – with funding and policy predominantly managed by DHHS and Family Safety Victoria

7. System reform

- Local Government – with independence yet reliant on government funding for major initiatives
- Aboriginal Engagement – with funding through DHHS, as well as links with other departments including DJR and DHHS and implications of emerging treaty discussions
- Less directly, MABELS also connects with: Victoria Police, Courts (Intervention Orders), Health services (including emerging work with antenatal and maternity services, CaLD communities and family violence services).

MABELS has proven highly effective through a project-funding approach. However as MABELS seeks to be continued and extended, it faces funding challenges with no obvious departmental funding pathway that can adequately fund the integrated model.

Other cross sectoral approaches face similar challenges.

Without a shared leadership approach across portfolios and across departments MABELS and similar programs cannot be suitably funded or sustained.

Recommendations

1. **That the Victorian Government establish a shared leadership approach that facilitates the integration and collaboration of different sectors and agencies working to prevent, intervene early and respond to family violence.**
2. **That the Victorian Government establish cross departmental funding to adequately facilitate integrated models of practice.**

Integrating legal assistance within early intervention family violence models

With a strengthened community and police response to family violence, women and children are increasingly coming into contact with the legal system. In 2016-2017 Victoria Police attended 76,500 incidents, children were present at 23,368 incidents. There were 35,567 Intervention Order Applications heard in Magistrates' Court of Victoria.[104] On average 1 woman is killed per week by a current or former partner.[105] Overwhelmingly, the legal and social needs and remedies in providing safety to women and children experiencing family violence are unavoidably and inextricably intertwined. The burden of navigating the legal system for women and children experiencing family violence can of itself be traumatic and 'the court process can be intimidating, confusing and unsafe.'[106]

Furthermore, 'women have less access to information about their rights, have more difficulty obtaining legal services, and are more likely to experience financial insecurity, which impacts on their access to legal support and leads to difficulty in navigating court systems. Women living with violence often face increased social and economic marginalisation. This results in them facing additional barriers in accessing legal services, thereby restricting their ability to use the legal system to seek protection or to uphold their rights and re-establish their lives after having left a violent relationship.'[107]

7. System reform

The Australian Law Reform Commission in their Final Report titled *Family Violence – A National Legal Response 2010* described family violence as a legal issue that sits within a complex framework of state and federal laws and against the backdrop of international instruments. Furthermore, they reported that 'A number of stakeholders in this Inquiry commented that the different parts of the legal framework dealing with issues of family violence operated in 'silos' and that this was the key problem in the system. Although the laws utilised within each 'silo' might be perceived to operate effectively, or to require minor refinement and change, the problems faced by victims of violence required engagement with several different parts of the system. Consequently these people could be referred from court to court, agency to agency, with the risk that they may fall between the gaps in the system and not obtain the legal solutions—and the protection—that they require.'[109]

Many reviews and inquiries have made recommendations to improve the interface between these systems, yet this continues to be an area requiring critical attention and reform. Improving the intersection between the family law, child protection and family violence systems will require significant coordination and collaboration between jurisdictions.[110]

There is strong evidence to suggest that integrated practice models can:

- simplify coordinated response to multiple client needs
- provide multiple entry points for intervention
- minimise the likelihood and impact of secondary victimisation. [111]

MABELS supports the evidence that integrated practice models can enhance a woman's access and experience of the family violence service system. Furthermore it also demonstrates that

incorporating legal assistance within an early intervention approach to family violence can empower women with information about their legal rights and legal options. This information can be pivotal in reducing the burden on women and children to navigate a complex legal system in seeking safety from family violence or upholding their rights after separation.

Recommendations

3. **That the family violence reforms led by the Victorian Government recognise the value of integrating legal assistance as part of the broader systemic response to family violence.**
4. **That the Victorian Government ensure that legal assistance is expanded to be readily accessible as part of the prevention and early intervention to family violence.**
5. **That the Victorian Government recognise the value of empowering women with their legal rights and options as an integral function of the Support and Safety Hubs, known as The Orange Door.**

7. System reform

Legal professional privilege

From the outset of MABELS, the MABELS Partnership has confronted the potential concern that the MABELS model raises questions around whether a woman's right to legal professional privilege is protected. There is no doubt that the integrated model not only ensures a more thorough understanding of a woman's experience of family violence and therefore the provision of more meaningful legal advice, but also that her risk is appropriately assessed and managed as part of the legal advice and legal options provided.

As the law currently stands, the dominant purpose test means communications between a lawyer and client are considered privileged if they were made for the dominant purpose of:

- giving or obtaining legal advice; or
- preparing for, or for use in, existing or reasonably anticipated legal proceedings. [112]

One of the key rationales for the existence of legal professional privilege is to encourage full and frank disclosure between client and lawyer, ensuring the lawyer can provide the most meaningful and robust legal advice. [113] On the basis of this rationale, therefore, a similar argument may be made about the need for the protection of privilege to extend to MABELS-style appointments where the family violence lawyer and family violence advocate are present, as the presence of the family violence advocate ensures that the woman is in a position to provide the lawyer with the most complete set of instructions.

It is worth noting that the protection of privilege can also be extended to communications between a third party and a lawyer or their client where that communication was made in contemplation of anticipated litigation. There is a strong argument to be made that women should be able to rely on this arm of privilege to protect the communications made in MABELS appointments where the family violence lawyer and family violence advocate are both present. However, the current state of the law in this area does not make this clear. There is even further complexity added when the family violence advocate is employed by a service that is prescribed to share information under the Family Violence Information Sharing Scheme,[115] or one of the practitioners is required to report under mandatory reporting legislation.[116]

Through its service design, MABELS has been able to reduce the risk to legal professional privilege to a minimal level, as services are conducted in a manner to ensure that dominant purpose of the engagement is legal advice and therefore, privilege applies. However, the lack of clear legislative guidance and fact that this risk can only be minimised and not eliminated, creates challenges in which a woman is put in a position of having to choose to accept this risk or lose the benefit of integrated practice. The clear majority of women have elected to proceed with the integrated MABELS appointments, despite the uncertainty around legal professional privilege.

There is undoubtedly a risk that women engaging in integrated MABELS appointments with both the family violence lawyer and the family violence advocate may risk waiving their right to legal professional privilege. This position places women and their children in the unfair position of having to choose between accessing comprehensive legal and safety advice or accessing less comprehensive advice but retaining certainty around their legal right to privilege. It is not within the capacity of the MABELS Partnership or indeed this report to explore this complex legal issue in sufficient detail however it is a recommendation that legislative reform be enacted to clarify the types of scenarios that would be covered by legal professional privilege including notations with specific examples. Without any amendment this continues to be an additional burden to be borne by women experiencing family violence as they are asked to compromise either their safety or their legal rights.

Recommendations

6. **That the Victorian Government and the legal sector work collaboratively to provide clearer legislative guidance to address the potential conflicts in professional obligations that arise from interdisciplinary legal programs such as MABELS, particularly in relation to clients' right to legal professional privilege, information sharing and mandatory reporting.**

Acronym List

ADVO	Apprehended Domestic Violence Orders (NSW)
ANROWS	Australia's National Research Organisation for Women's Safety
BWAHS	Boorndawan Willam Aboriginal Healing Service
CIF	Community Initiatives Fund (an Aboriginal services DHHS grants fund)
DHHS	Department of Health and Human Services
DJR	Department of Justice and Regulation
DVU	Domestic Violence Unit
DV Vic	Domestic Violence Victoria
ECLC	Eastern Community Legal Centre
EDVOS	Eastern Domestic Violence Service
ERSS	Early Resolution Services Sector
FVA	Family Violence Advocate
HJA	Health Justice Australia
HJP	Health Justice Partnership
IVO	Intervention Order (generally Family Violence Intervention Order) (Vic)
LJF	Law & Justice Foundation New South Wales
LSB+C	Legal Services Board + Commissioner (Victoria)
LSRC	Legal Services Research Centre (UK)
MABELS	A Health Justice Partnership established as an innovative early intervention legal response to family violence in the maternal and child health context
MCaFHNA	Maternal, Child & Family Health Nurses Australia
MCH	Maternal and Child Health
NACLC	National Association of Community Legal Centres
NNVAWI	Nursing Network on Violence Against Women International
RCFV	Victorian Royal Commission into Family Violence
WLSV	Women's Legal Service Victoria

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