

Submission: Family Violence Discussion Paper

1. Overview

The Discussion Paper raises a wide range of issues and poses many detailed questions. COTA Tasmania's submission is narrowly targeted, addressing a threshold issue that we consider fundamental to the effectiveness of any reform package:

The definition of “family relationship” (and therefore the definitional scope of “family violence” under the Family Violence Act) is too narrow and does not adequately recognise or enable an effective response to elder abuse occurring within family relationships.

Unless the definition covers the scope of the real-world problem, policy responses and service system design will inevitably be inadequate and/or misdirected for a material cohort of victim-survivors. For that reason, COTA Tasmania does not respond to the Paper's many detailed prompts.

2. About COTA Tasmania

The Council on the Ageing (Tas) Inc (COTA Tasmania) is the state peak body representing older Tasmanians. We are an independent, not-for-profit organisation working with and for older people, and with the wide range of organisations that support them.

For more than 60 years, we have been the leading voice for older Tasmanians, promoting positive attitudes to ageing, advancing social inclusion, and championing the rights, interests and value of people as they age.

We listen to the experiences of older Tasmanians, analyse emerging issues, and provide independent advice to Government, service providers and the broader community.

COTA Tasmania works across three main areas:

- policy and advocacy,
- information and education, and
- community programs and partnerships.

3. Executive Summary

Tasmania's Family Violence Act framework is centred on spouse/partner (and certain intimate partner) relationships as the gateway to Family Violence Orders and related system responses.

The Discussion Paper notes that Tasmania is the only jurisdiction that limits the definition of family violence in this way and that, if other relationships are to receive the same level of protection, support and accountability, the definition of “family relationship” would need to be amended (Discussion Paper, p23).

The Paper also notes that other jurisdictions extend coverage beyond intimate partners, including relationships by blood/marriage/adoption/fostering, siblings and extended family, Aboriginal kinship ties, and in some cases people living in the same household, people in the same residential care facility, and people reliant on care (Discussion Paper, p24).

The Paper identifies an implementation issue: if scope is expanded, existing services may not be appropriate for all familial relationships and may not be sustainable without redesign/resourcing (Discussion Paper, p25).

COTA Tasmania agrees implementation must be planned and resourced. However, definitional reform is essential so that elder abuse occurring within family and dependency contexts is recognised within the primary family violence framework.

4. The core issue: an inadequate definition

Definitions are not simply technical. In this context, they determine who can access protection orders and system responses designed for family violence risk, and whether the system recognises the dynamics of coercion and dependency that often feature in elder abuse.

If the family violence framework's gateway relationship definition does not include elder abuse contexts, the reform system will continue to treat them as "adjacent" rather than central—leading to gaps in safety, inconsistent pathways, and variable accountability.

Tasmania has the oldest age profile of any Australian jurisdiction, and the incidence and complexity of elder abuse is widely recognised as increasing. COTA Tasmania's prevention and community education work, and the experience of frontline services, indicates older people commonly experience abuse within family relationships, including from adult children, other relatives, and in some cases within caring/dependent relationships.

COTA Tasmania has previously observed that Tasmania is the only state that does not have provisions in its primary family violence legislation for people experiencing violence outside of spouse or intimate partner violence (COTA Tasmania submission to the Family Violence (Miscellaneous Reforms) Bill 2025, 28 May 2025).

From a COTA perspective, this definitional constraint has a direct consequence: it pushes many older victim-survivors, particularly those experiencing abuse by adult children, grandchildren, siblings, other relatives, or in dependency/care contexts, outside the primary family violence pathway and its protections.

The Tasmania Law Reform Institute (TLRI) has also directly identified this gap in noting that that the Family Violence Act 2004 is confined to abuse in a current or former 'significant' intimate partner relationship. (*Safeguarding Against the Abuse of Older Tasmanians (Research Paper No 9, Sept 2025, pp 130–131.)*)

It goes on to point out that the Act's 'specific (and narrow)' relationship definition means it does not cover violence against older Tasmanians perpetrated by other family members (including children, grandchildren and siblings) or carers - notwithstanding that these are the relationship contexts in which abuse of older people commonly occurs.

TLRI further observes that where abuse is not perpetrated by a current or former intimate partner within a 'significant' relationship, restraint orders are often the only civil protective order option available.

It also notes that available data and stakeholder insights suggest concerns about abusive behaviour towards older people typically involve adult children.

This is consistent with national evidence. The consultation draft National Plan to End the Abuse and Mistreatment of Older People notes that research shows family members (mostly adult children) are the biggest group of people who cause harm to older people. (*Council of Attorneys-General, National Plan to End the Abuse and Mistreatment of Older People 2024–2034: Public Consultation Draft, p23*)

It also reports that in the National Elder Abuse Prevalence Study, the predominant relationship dynamic was intergenerational and familial, with children (18%), intimate partners (10%), partners of children (7%) and grandchildren (4%) accounting for a significant proportion of people who cause harm; and that for financial abuse, sons represented 24% and daughters 12% of people who cause harm.

5. Elder abuse should not be relegated to ‘separate frameworks’

COTA Tasmania notes that the Discussion Paper refers to elder abuse being addressed through separate frameworks.

While specialist responses and tailored supports are important, treating elder abuse as separate from the core family violence framework risks repeating the very problem the reforms seek to solve: fragmented pathways, inconsistent thresholds, and unequal protection depending on the relationship type.

Elder abuse commonly occurs within family and dependency relationships and often involves coercive control, financial abuse, psychological abuse, neglect, and exploitation. These are family violence dynamics. If the primary family violence legislation does not recognise the relationship contexts in which elder abuse most often occurs, the system response will remain structurally incomplete.

COTA Tasmania therefore supports a model in which elder abuse occurring within family and care/dependency relationships is recognised within the primary family violence framework, with tailored practice guidance and service pathways that reflect older people’s circumstances (including dependency, housing stability, and decision-making autonomy).

COTA Tasmania also notes the risk of age-based assumptions and exclusions if definitional gateways remain narrow. Elder abuse and family violence can affect people before a particular age threshold,

and older Tasmanians should not face reduced access to protection or support because they do not fit an arbitrary definition of who ‘counts’ as an older victim-survivor. A relationship-gated framework that excludes common elder abuse relationships risks producing unequal protection outcomes for older Tasmanians and undermines confidence in the overall reforms.

6. The Discussion Paper supports definitional reform

COTA Tasmania notes and supports the Paper’s recognition that Tasmania’s Family Violence Act is the centrepiece of the response to family violence (p22), that Tasmania’s relationship scope is nationally anomalous (p23), and that broader definitions are used elsewhere (p24).

The Paper also recognises that any definitional expansion has service implications and requires careful design and sustainability planning (p25).

In COTA Tasmania’s view, these statements establish the case for reform. The Paper identifies the definitional gap and acknowledges it is nationally unique and the appropriate response is to design a staged, resourced implementation - rather than leaving the gap in place.

7. Recommendations

1. Expand “family relationship” beyond spouse/intimate partner

Amend the Family Violence Act definition of “family relationship” so the family violence framework explicitly includes family relationships beyond spouse/intimate partner relationships, including adult child-to-parent abuse and other intergenerational and extended family relationships.

2. Explicitly recognise kinship and culturally recognised family structures

Ensure an expanded definition clearly includes Aboriginal kinship ties and other culturally recognised family groupings, consistent with approaches described in the Discussion Paper.

3. Include care/dependency relationships where coercion and abuse occur

Ensure the definition captures relevant care and dependency dynamics (including unpaid care and family-like care relationships), so older victim-survivors are not excluded because the relationship is not an intimate partnership.

4. Commit to staged, resourced implementation

Adopt a staged implementation approach (Appendix B) with funded service design, workforce training, operational guidance for police/courts/services, and public information tailored for older Tasmanians.

5. Monitor and report outcomes for older Tasmanians

Build in monitoring and evaluation focusing on impacts for older victim-survivors: demand, outcomes, pathway selection, service access, and any unintended consequences.

8. Conclusion

COTA Tasmania supports reform that strengthens Tasmania’s response to family violence. However, reforms will not achieve their full intent unless the definitional gateway is fit for purpose.

COTA Tasmania submits that definitional reform is essential so that elder abuse occurring in family and dependency contexts is recognised within the primary family violence framework, and so the system response is designed around the realities of harm across the lifespan.

Accordingly, COTA Tasmania urges the Government to prioritise definitional reform and implement changes in a staged, resourced way to ensure older Tasmanians are equitably protected.

APPENDIX A: Comparative context – definitional scope in other jurisdictions

The Discussion Paper notes that other states and territories extend family/domestic violence relationship scope beyond intimate partners, including extended family, kinship, household and residential facility co-residency, and care reliance (Discussion Paper, p24).

The table below provides a brief illustration of how broader relationship scope is reflected in other jurisdictions’ frameworks.

Jurisdiction	Relationship scope (high-level summary)	Notes (elder-abuse relevance)
Tasmania	Partner/intimate partner gateway (marriage or significant relationship).	Often excludes adult child-to-parent and other non-partner family abuse from the primary Family Violence Act pathway.
Queensland	Relevant relationship includes intimate personal, family relationship, or informal care relationship.	Explicitly includes family and informal care contexts common in elder abuse.
New South Wales	Domestic relationship includes partners/ex-partners, same household, long-term residential facility co-residents, and ongoing paid/unpaid care dependence.	Captures household, aged care residence and care-dependence contexts.
Victoria	Family member includes partners, relatives, and family-like/culturally recognised family structures (including carers/guardians in relevant circumstances).	Broad intergenerational and family-like coverage.
South Australia	Domestic abuse framework applies across a wide set of relationships, including intergenerational family relationships and kinship.	Strong intergenerational/kinship coverage.
ACT	Family violence orders apply to behaviour by a person against a family member, including relatives.	Relatives covered, supporting broader family-violence responses.

Western Australia	Family violence restraining order system includes partners and relatives/kinship relationships among others.	Relatives/kinship covered (important for elder abuse).
Northern Territory	Domestic and family violence framework includes partners/ex-partners, relatives/kinship, and carer/guardian contexts.	Relatives/kinship and carer contexts covered.

Note: This Appendix is indicative and complements the Discussion Paper's own summary of broader categories used in other jurisdictions (Discussion Paper, p24).

APPENDIX B: Aligning COTA recommendations to the Discussion Paper's definitional reform pathway

B1. Preferred definitional approach (aligned to the Paper's identified categories)

To align with the Paper's description of broader interstate categories (Discussion Paper, p24), COTA Tasmania supports amending the definition of "family relationship" to include at least:

- Intimate partner relationships (current and former), whether or not co-resident.
- People related through blood, marriage, adoption, fostering/guardianship, including siblings and extended family.
- Kinship ties in Aboriginal communities and other culturally recognised family structures, explicitly.
- Care/dependency relationships where a person is dependent on another for activities of daily living or essential needs, and where coercion, neglect, exploitation or abuse can occur.
- Subject to safeguards and service design: co-residence contexts such as people living in the same household or in the same residential care facility, where dynamics may foster coercive and abusive behaviours.

B2. Staged implementation to address appropriateness and sustainability

COTA Tasmania agrees with the Paper that service models designed around the current definition may not automatically fit all relationship types and that sustainability must be addressed (p25). We therefore recommend a staged, funded approach:

Stage 1 (priority cohort / highest benefit for elder abuse):

- Expand the definition to include relatives/kin (including intergenerational relationships) and care/dependency relationships.
- Develop older-person-informed risk and safety guidance for police/courts/services, reflecting dependency, housing and financial abuse dynamics.

Stage 2 (broader domestic settings, with safeguards):

- Extend to household and residential facility co-residency contexts where appropriate.
- Implement safeguards and guidance to ensure correct pathway selection and proportionality.

Across both stages:

- Workforce and service capacity planning and resourcing.
- Training for police/courts/frontline services.
- Public information tailored to older people and carers.
- Monitoring and reporting on outcomes for older victim-survivors.

B3. Draft-ready recommendation wording

COTA Tasmania recommends the Government adopt a definition of "family relationship" that is broad enough to capture family violence and elder abuse across the lifespan, and pair it with staged implementation and resourced service redesign to ensure responses remain appropriate and sustainable for different relationship types.