Risk assessment – Imminent

Carol and Rod were both born overseas, sharing a country of origin where they met and lived together for some years before marrying and immigrating to Australia. English is their first language. They have two children who are now adults. Carol and Rod separated after twenty- five years; however they remain married to one another. Carol completed high school and obtained an industry qualification. She now works part-time. Rod is university educated, has a professional qualification and works in highly-remunerated employment. Throughout the relationship Rod worked overseas at remote locations for extended periods, returning home periodically. Rod continues to work in this manner, however Carol believes that he now returns only occasionally as he is concerned about being charged for multiple breaches of the protection order she has against him. Rod sends Carol his pay slips to show her how much money he is earning; he never paid child support. Carol believes that Rod has been mentally unwell for many years, though he’s never sought help or a diagnosis. Carol believes Rod has not accepted that the marriage is over even after 12 years of separation; he continues to wear his wedding ring, and tells her and others that they’re still together.

Carol describes their long relationship as turbulent and dysfunctional and recognises that Rod’s controlling behaviours began in the early years and escalated after they arrived in Australia with their infant first child. When the couple were still living overseas and Carol was pregnant, Rod sought to isolate Carol from her close family and support network by insisting on buying property some distance away from the town where her many family members resided. When Carol needed to buy business wear that was often expensive Rod would monitor her spending. On the advice of a friend, Carol carried a red texta pen so she could mark the tags as sale price before bringing them home for Rod to scrutinize. Carol opened a separate bank account of her own for her earnings and made sure the statements weren’t posted to their address; Rod insisted however that her earnings be exhausted first on groceries and household expenses before he made a contribution. Once in Australia, as well as his financially controlling and socially isolating behaviours, Rod became physically violent towards Carol, often punching and at times strangling her over many years. Rod would not allow the children to eat meals with him and Carol; he told them he wanted their mother to himself. Rod also often told the children Carol was mad, and when the children were adults he announced to them and other of Carol’s family members that she was dying. At one stage during a separation Rod tried to have Carol declared an unfit mother alleging alcoholism and mental illness; he subpoenaed her medical records, however was unable to substantiate his claims. Carol tried to leave the relationship on four occasions before their final separation. She returned each time because she found it too difficult to care for the children properly, she did not have adequate financial resources of her own, and Rod would regularly turn up at the homes of friends or family where she was staying and try to claim her back.

One evening Rod’s behaviour became so terrifying to Carol that she believed he would kill her. Rod had pinned their older child up against the wall; Carol retaliated telling him never to touch the children. For years, Carol had put up with Rod’s violence and abuse for fear that resistance would only exacerbate his behaviour; but she would not tolerate the children being harmed. Rod’s response was to force Carol into a chair, strangle her and hold two knives to her throat. The following day Carol’s neighbour told her that they thought an animal was being tortured in the garden. Somehow Carol managed to call the police; they attended quickly and, witnessing the marks on Carol’s neck and Rod’s state, took the matter seriously. As the police were arriving at the house, Rod took his shirt off and started drinking spirits from a bottle, though he’d not drunk previously that night. He tried to push past the police to get at Carol, and when stopped he smashed the glasses on the kitchen bench. The police handcuffed Rod and detained him elsewhere for the night while an officer remained and took a statement from Carol. She was extremely concerned that if the police took action against Rod, he would return the next day and kill her. The police persisted telling Carol that they must proceed and get a protection order on her behalf against Rod to ensure her safety. The matter was set down to be dealt with at the Magistrates Court the following afternoon, however Rod failed to appear and a warrant was issued for his arrest. The hearing proceeded and a final two-year protection order was made by the court prohibiting Rod from any form of contact with Carol and allowing Rod only supervised visits with the children. Carol found the court experience intimidating and unfamiliar: Rod was represented by a private lawyer; she was required to be in the courtroom with Rod at close proximity and no screens or other protections were offered. On a positive note the court’s domestic violence service arranged for her to sit in a separate waiting room before the hearing.

On the day the first protection order was granted, Rod withdrew hundreds of thousands of dollars from various joint accounts and a line of credit never previously used, and sent the money to overseas bank accounts Carol had no knowledge of. Carol does not recall signing any documentation for the joint line of credit and was astonished and distraught that the bank would allow it to be drawn down without her authorisation. Rod had on many occasions promised to financially cripple Carol.

Following the protection order—which Carol says marked their final separation—the children lived with Carol, and saw their father occasionally under supervision by family members or friends. Rod did not seek parenting orders from the Family Court to secure this arrangement or to increase his contact time. Eventually, family and friends told Carol that they could no longer supervise Rod’s visits with the children because he did not spend the time with the children; rather he used it as an opportunity to question them about Carol.

Since separation Rod’s abuse of Carol has been constant and menacing, and continues after 12 years. Being out of the country is no bar to Rod’s capacity to abuse Carol. When overseas Rod rings or texts or emails Carol at least twice daily, and often more frequently. These communications are chaotic, disturbing and intimidating: they include taunts and insults; appeals to Carol to return to the marriage with pledges such as I love you, I’m worried about you, and I miss you; and goading with questions such as: Have I tipped you over the edge yet? Why are you making me having to kill you? He has sent pictures of dead children. He also sends Carol postcards, flowers, gifts and grocery deliveries. When in Australia, Rod has slept in the garden of the property where Carol lives (and owns jointly with Rod); he has broken into the property, stalked Carol and her friends in the local area, and twice followed her on overseas trips. On one occasion, knowing he was following her, Carol drove home quickly and locked herself in the house. Rod tried every door and window to gain access. While she sat behind the front door so that Rod couldn’t see her, Carol called the police in whispered tones, again so as not to alert him to her presence; the police later told Carol that they did not give the call priority because they expected that if she were genuinely fearful she would be screaming.

Carol has been forced to seek multiple protection orders over the years, and still requires an order even though she questions how effective they are given Rod’s serial and flagrant breaches. Due to Rod’s regular periods overseas and generally elusive behaviour, service of orders has been recurrently problematic, sometimes taking weeks for service to be effected. Carol has had to apply for substituted service. Rod has also prolonged and thwarted court proceedings by having his lawyer regularly seek adjournments on work grounds. Carol has been vigilant in recording Rod’s breaches and regularly reporting them to the police; however she feels that she may be regarded as an annoyance by some police officers. Rod has nevertheless been charged and convicted on five occasions for breaches of protection orders. Each time he has received a fine, which Carol believes has no deterrent effect due to Rod’s significant income, and the fine amount has reduced over time despite Rod’s reoffending. At no stage has Rod ever been charged with stalking or strangulation offences nor have police ever discussed these possibilities with Carol, though they have mentioned to her that they believe a term of imprisonment is appropriate for a future breach conviction. Carol believes that imprisonment would make a difference to Rod’s behaviour especially if he was also required to undertake a perpetrator intervention program as she feels that this is the best opportunity for his mental ill health to be addressed.

Carol has done her best to stay healthy and positive despite the history of abuse she continues to experience. She believes Rod is becoming more dangerous and the fear that Rod will one day kill her remains real and front of her mind. She avoids social media because she’s very concerned that it would be another means by which Rod could track her. She has also given up on developing any intimate relationship as she knows that Rod would attempt to follow and intimidate her and any partner.

Carol’s financial resources are limited, she earns a modest income, and has no assets of significant value other than the house property she resides in and owns jointly with Rod. Carol has for decades serviced the original debt on the property; she feels she can manage this with her earnings. Rod further mortgaged the property some years ago, and continues to service that liability. Carol’s preference is to divorce Rod but this would require a property settlement. Carol knows this process will precipitate the sale of the house property and the equity will largely be exhausted in paying debts accrued by Rod and yet held in their joint names.

Carol has had a long engagement with court processes mostly as a self-represented party attempting to seek protection against Rod’s violence and abuse. Her confidence has grown over the years, but she remains concerned that she is unable to secure the legal protection from Rod’s abuse that she needs. On one occasion she received advice from legal aid for a breach hearing against Rod; but she has always appeared in protection order matters on her own. She believes that police have mostly taken her complaints seriously, though at times she has felt that she’s an annoyance due to her frequent reporting of breaches, or that she’s been disbelieved, for example looking to exploit the process to achieve a favourable financial outcome for herself. Carol also feels that the Magistrates she has appeared before have rarely read or fully understood the material setting out the history of the violence and abuse, and that the penalties for breaches of protection orders are inconsistent, inadequate and Magistrate specific. Carol’s concerns and fears continue unabated.