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**Department of Communities and Justice**  
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Via email only: [policy@justice.nsw.gov.au](mailto:policy@justice.nsw.gov.au)

**RE: Statutory Review of the Victims Rights and Support Act 2013**

The Hunter Community Legal Centre (HCLC) acknowledges the Traditional Custodians of the Lands on which we live and work across. We pay our respects to Elders past, present and emerging.

HCLC welcomes the opportunity to review the *Victims Rights and Support Act 2013* and provide recommendations based on our first-hand experience of supporting victim-survivors access the Victims Support Scheme.

**About Hunter Community Legal Centre**

The HCLC is an independent, not-for-profit, community legal centre funded by the State and Federal Attorneys General Departments. We provide free legal advice and assistance to people living with disadvantage who live, work or study in the Newcastle, Lake Macquarie, Port Stephens, Great Lakes and Hunter Valley regions of New South Wales.

The vision of the HCLC is to promote an empowered community that values equal access to justice and upholds and respects human rights. The mission at HCLC is to enhance access to justice and promote human rights in the Hunter Region by: providing a high quality accessible legal service to disadvantaged and vulnerable people; delivering legal information and education to service providers, clients and

the community and identifying and engaging in law reform activities to address inequalities in the legal system.

In March 2022, in response to the overwhelming need to support people experiencing domestic and sexual violence in our community the Hunter Community Legal Centre established a new Victims Services Support Clinic.

The HCLC Victims Services Support Clinic provides free legal advice, support and representation to people seeking counselling, financial assistance for immediate needs, financial assistance for economic loss and recognition payments through the Victims Support Scheme

### **HCLC recommendations**

The HCLC provides the following recommendations to ensure that the Victims Support Scheme in NSW recognizes and validates the experiences of victim-survivors. We feel that in order to achieve this the Victims Support Scheme must be trauma informed and survivor centric.

Our main concerns are that the current scheme may retraumatize victims of abuse and that there are still many barriers to victim-survivors accessing the scheme in NSW. Our recommendations are as follows:

- 1. Legislating the removal of the requirement to separately prove injury*

The requirement to provide two (2) separate pieces of evidence to support an application for Victims Support is not trauma informed. This requirement puts survivor victims under enormous psychological pressure as they are forced to share their stories repeatedly, often reliving some of the most traumatic moments of their lives.

### **Case study**

Casey\* is a 20-year-old woman. As a child she was violently assaulted both physically and sexually by members of her family. These assaults are well documented by police, however she never sought medical attention. Casey did not feel ready to relive the trauma of her past, however, was required by the current

rules to complete the certificate of injury to support her application. Having to relive her trauma has been very detrimental to her health. Although, she knew that she would have to treat her trauma at some point, she felt that she was forced to seek medical treatment when she wasn't quite ready.

## *2. Improve access to counselling*

As a regional Community Legal Centre we have found that many of our clients are having to wait upwards of six (6) months to access Victims Services Approved Counsellors. In addition to this many of our clients are having to travel many hours for face-to-face appointments.

Victims Services must increase the number of suitably qualified Victims Services Approved Counsellors available, including in regional, rural and remote areas. This includes counsellors who are culturally safe, disability aware, LGBTIQ+ aware, and trauma informed.

### **Case Study**

Rory\* is a young man, who was approved for counselling in relation to a sexual assault matter. He urgently required support as he had just disclosed abuse to police and his mental health was in serious decline. He called several counsellors in his area but was turned away because their 'books' were closed. Eventually he found a counsellor that could see him in six (6) months' time, however Rory would have to travel over 1 hour to seek assistance. Whilst waiting see a counsellor Rory attempted to take his own life and was admitted to hospital.

## *3. Victims Services to collect evidence or fund services to undertake this work and reimburse services for associated costs*

Requiring victim-survivors to collect their own evidence is contrary to the principle of trauma informed practice. This may lead to victim-survivors becoming retraumatized and it may also lead to victims being unable to complete their applications. This curtails their ability to access the scheme. Community Legal Centres and other support services have attempted to assist as many survivors as possible, however without an increase in resources our ability to help is limited.

### **Case study**

Lauren\* filed an application for Victims Support, many months later she was contacted by Victim Services seeking further evidence of harm. Lauren was in the middle of relocating and getting her life back together after experiencing very serious domestic violence. She didn't understand what Victims Services needed from her and she also felt 'triggered' by having to reengage with services that had helped her after the incident. As a result Lauren failed to provide her evidence and her application was dismissed.

#### *4. Remove the requirement to provide banking details in the application*

Providing bank details up front may enable financial abuse to occur where the parties have not been able to completely financially separate. In many cases victims may find it difficult to find financial independence from their perpetrator and/or they may be in this midst of family law property proceedings.

### **Case study**

Karen\* was a victim of domestic violence and received an Immediate Needs Support Payment. Her partner had access to her bank account and stole the money. Karen was then audited by Victims Services and was denied any further Immediate Needs support payments.

#### *5. Simplifying identity checks*

Victims Services should adopt a more flexible approach to identity documents, accepting a wider range of identity documents and enabling applicants to provide identification documentation at a later time rather than at the time of application.

For example, First Nations people, homeless people often do not have ID documents, moreover, trans people (binary and non-binary) who were born in NSW and who have not undergone gender affirmation surgery, often cannot update their gender markers on identity documents. This can cause challenges in having ID documents that match gender experience.

The HCLC works with many first nations people who do not have access to traditional forms of identification. Gaining access to these identification documents can take many months, this may impact their ability to apply for victims support within the limitation period.

#### *6. Ensure procedural fairness*

We believe that Victims Services should inform applicants, legal representatives of the earliest date by which a matter will be determined. This will ensure that victim-survivors have appropriate notice so as to provide all evidence required for their matter. There have been instances where Victims Services have made decisions without all the relevant evidence which has then forced clients to seek an internal review – causing further traumatization.

We seek that all applicants and legal representatives have access to all evidence upon which Victims Services relied to make a decision. This is particularly relevant when clients seek an internal review or appeal of a decision. Procedural fairness requires an application to have access to all evidence relied upon for Victims Services to make their decisions.

We also seek that Victim Services adopts a more trauma informed approach to auditing of Immediate Needs Support Package. Victims Services audit on a random basis, they do not take into consideration that many victim-survivors flee violent situations and often do not have the forethought or emotional capacity to catalogue receipts and correspondence. Victims Services should provide other options for victims to explain expenditure of INSP grants.

#### ***Case study***

Karen\* was a victim of domestic violence and received an Immediate Needs Support Payment. Her ex-partner had access to her bank account and stole the money. Karen was then audited by Victims Services and was denied any further Immediate Needs support payments. Her ex-partner has left her with nothing and now she is struggling to find safe accommodation.

#### *7. Increase transparency and accountability*

Require Victims Services or its managing agency or Minister to publish policies and guidelines they rely on to make decisions.

Require Victims Services or its managing agency or Minister to regularly publish comprehensive data annually about the operation of the Victims Support Scheme as occurred under the Victims Compensation Scheme and also provide quarterly reports.

8. *Remove all time limits for victim-survivors of sexual, domestic and family violence as well as victim-survivors of modern slavery in relation to Victims Support applications*

We seek that Victims Services remove upper time limits on recognition payments and financial assistance for victims of domestic violence, sexual assault and child abuse as well as victim-survivors of modern slavery.

There are many reasons why victim-survivors may leave it many years to apply for victims services. They may be experiencing mental health challenges, financial hardship and social isolation that may make it difficult for them to reach out for help, or they may not identify as having experience a violent crime, this is particularly true for victims of sexual assault.

The HCLC also believes there should be greater recognition of domestic violence, including child abuse and sexual violence a modern slavery through higher recognition payments. Payments need to be indexed annually and should not ever decrease despite indexation. Many women have experienced decades of violence and a payment of \$1,500 is not sufficient recognition.

### **Case study**

Caitlin\* experienced years of domestic violence at the hands of her ex-husband, he threatened her, humiliated her and isolated her from friends and family. He financial destroyed her and for many years. Caitlin felt that she could not leave because she feared for her and her children's life. She found hope when she applied for Victims Services but felt insulted when she was only awarded \$1,500.

9. *Legislate amendments to enable Victims Services to pay third parties for Government Information (Public Access) Act 2009 (access to information) expenses and other evidentiary requirements such as medical reports separate to financial assistance*

Community Legal Centres and other legal and support services may need to pay the costs of obtaining medical evidence as the client is unable to fund the expense. Currently Victims Services will not reimburse third parties for these expenses. This is particularly disadvantageous to clients where Victims Services no longer assists victims to obtain this evidence.

10. *Add a new Victims Support payment called a Disability and Domestic and Family Violence Crisis payment.*

The needs of victim-survivors with a disability need to be better understood. Disability support, for example, for attendant care in a refuge or for an Auslan or sign interpreter, is very expensive. The cost of such support may be a barrier to leaving situations of domestic violence.

11. *Introduce INSP – sexual violence (following the success of INSP – DV)*

The INSP should be expanded to include victim-survivors of sexual violence to enable them to secure their safety via the use of the INSP grant.

### **Case study**

Mary\* was sexually abused by an ex-partner. Her ex-partner threatened to kill her if she told anyone. Mary needed financial support to help her relocate and for security measures on her new premises. Mary was out of time for an Immediate Needs Support Payment and as a result had zero financial support to relocate.

12. *Expand eligibility for Victims Support to people who are victims of crime whilst incarcerated.*

Currently a person in custody is not eligible for Victims Support if they are a victim of crime while in custody unless there are special circumstances, or they are in prison for failure to pay a fine.

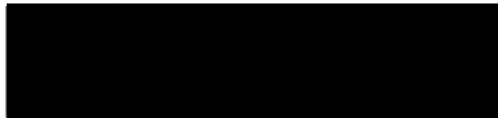
This can convey the message that violence is acceptable for people in custody and violence in prison is condoned.

All victim-survivors of crime should be able to access the support they need to help them to recover.

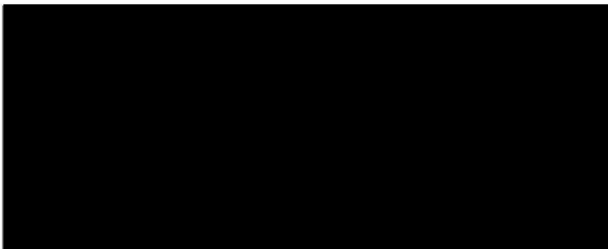
We thank you for your consideration.

Yours faithfully

**Hunter Community Legal Centre**



Principal Solicitor



\*Please note that all names have been changed to protect the identity of our clients.