

# Statutory Review of the *Victims Rights and Support Act 2013 (NSW)*

## NSW Police Force (NSWPF) input - 2022

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### Background

1. The NSW Police Force (NSWPF) welcomes the opportunity to provide input into the statutory review of the *Victims Rights and Support Act 2013* (the Act). These comments will focus on the NSWPF's role in supporting the Charter principles of the Act, and the Victims Support Scheme (VSS).

### NSWPF Role in Supporting Victims

2. It is the NSWPF's experience that all victims of crime require support. The NSWPF plays a large role in engaging and providing support to all victims of crime who have dealt with police. As first responders, victims often rely on police for immediate support and the policing response must be genuine and purposeful.
3. The overarching framework for the police response to victims of crime is the NSWPF *Victims Policy Statement and Guidelines for the NSW Police Force Response to Victims of Crime*. This framework is underpinned by the *Charter of Victims' Rights* enshrined in the Act.
4. The Policy Statement and Guidelines are supplemented by detailed internal procedures, which are appropriately tailored towards different types of victims and their varied needs.

5. Practical examples of the many ways the NSWPF engages with and supports victims include:
  - a. Taking statements and retrieving forensic evidence from victims of crime in a manner that is appropriate.
  - b. In situations where a young person is a victim of crime perpetrated by their caregivers, police work with the young person's school so they can speak to the young person in safety, with the school providing support to the young person.
  - c. Liaising with victims of crime and their family in relation to the progress of matters through the criminal justice system.
  - d. Informing victims of their rights whilst they engage with the criminal justice system.
  - e. Applying for court orders on behalf of victims (e.g. Apprehended Domestic Violence Orders).
  - f. External referral of victims to appropriate support services.
  - g. Attendance and direction of interagency meetings with internal and external stakeholders.
  - h. Conducting victim follow-ups and welfare checks.
  - i. Provision of advice and information to the Victims Support Scheme (e.g. COPS Events, police statements, court/prosecution outcomes and/or reasons for case closure and/or no further investigation)
  - j. Reducing the likelihood of victims being repeatedly targeted by criminals by providing home security assessments for victims of property crime.
  - k. Engaging with vulnerable groups by promoting safety measures and educating individuals on how to avoid becoming a victim of lesser-known crime types (e.g. elder abuse/financial abuse)

### NSWPF Victims of Crime Portfolio

6. The NSWPF has a Victims of Crime portfolio dedicated to improving outcomes for victims by building the capabilities of operational police. The portfolio focuses on policy development and practical strategies to provide a consistent response to all victims and meet the needs of victims from vulnerable and diverse communities.
7. The portfolio actively engages relevant stakeholders to provide victims of crime in NSW with a responsive, consistent standard of service from the time a crime is reported and throughout each stage of the justice system. The Victims of Crime Portfolio is actively involved in whole-of-government initiatives which aim to improve services for victims, such as "Justice Assist."
8. It is also noted that the NSWPF has an agency representative (at the Assistant Commissioner level) who sits on the Victims Advisory Board (VAB).

### Statutory Review of the Act

9. The NSWPF is supportive of the Act and the Victims Support Scheme (VSS) which recognises the importance of formal access to support which is tailored to a person's particular needs. With that said, the NSWPF has identified some areas where the VSS and everyday implementation of the Act could be strengthened.

## Eligibility criteria

10. NSWPF believes consideration should be given to capturing a broader range of crimes, victims and services under the VSS to ensure that it encapsulates the multi-faced impacts of crime.

## Non-violent or attempted crimes

11. The NSWPF notes that the VSS only supports victims of violent crime. The experience of the NSWPF in our engagement with victims is that the impact of all crime types can be significant. We request that the statutory review consider expanding the scheme to a broader range of crimes where victims are impacted, for instance:
  - Break and enters
  - Stealing where the victim was not at home
  - Cyber fraud and identity fraud
  - Crimes committed in rural areas where victims are isolated geographically
12. There is also merit in considering victims of attempted violence, where an offender has attempted to use a weapon to inflict personal injury, but damaged property instead, or caused mental harm.

## Compensation awarded by a Court

13. The NSWPF notes that compensation awarded by a Court is dependent upon an offender receiving a conviction. In some cases, it is evident that a person has been a victim of a violent crime, however there is no conviction, or the matter does not proceed to court for various reasons.
14. The NSWPF requests that the review considers whether there should be an ability for a Court to make an order against a person for compensation to be paid to a victim in the absence of a conviction.

## Persons other than primary victims

15. The NSWPF requests consideration be given to a broader range of affected persons under the VSS. For instance, close family members of sexual assault victims (and similar crimes) do not have access to free counselling to assist them in providing emotional support to the primary victim. This support could also be extended to secondary victims who may benefit directly from counselling.
16. The NSWPF have also experienced instances where witnesses are hesitant to testify in Court due to not having the necessary access to counselling to support their recovery and emotional ability to testify.

## Jurisdictional Issues

17. The NSWPF notes that there are jurisdictional issues associated with eligibility of victims and requests consideration to crimes that occur outside NSW or have a cross-jurisdictional remit. NSWPF has been advised by some victims that they have experienced difficulties in being eligible for the VSS in circumstances where they were subjected to a crime which occurred partly outside

of NSW. This can particularly occur in the context of “acts of modern slavery”. The major issue for victims in these circumstances is the harmonisation of support and the fact that recognition payments may vary across jurisdictions. The upshot of these issues is that the full extent of a crime which has occurred may not be accounted for by support schemes.

#### Broader services

18. The NSWPF requests that closer consideration be given to the kinds of services that are offered to eligible applicants under the scheme.
19. For example, expedited financial assistance to overseas family members of homicide victims would allow them to fly to NSW to attend a coronial hearing without needing to make alternate financial arrangements. As it currently stands, family members in this situation often borrow money to travel to Australia and then seek reimbursement via the scheme after the proceedings have concluded.

#### Multiple orders

20. The NSWPF notes that if a victim is entitled to compensation under a Court order, they are not also eligible for support under the VSS (and vice versa). However, consideration should be given to whether the prohibition on multiple orders should only apply when compensation is actually paid, as opposed to when an order has been approved – noting that compensation may ultimately not be paid or paid in an untimely manner.

#### Public awareness

21. Our experience working with victims is that the VSS and its benefits are not well known or understood. Police assist where they can in providing assistance and information about support, however consideration should be given to broader public awareness of the scheme, including the benefits that counselling (and other non-monetary forms of support) can provide. Cultural differences also need to be approached sensitively whereby monetary compensation may not always be welcomed.

#### Expenditure Accountability

22. The NSWPF is aware of circumstances where the VSS has been defrauded and support payments have been used inappropriately. For example, the NSWPF can advise that on two occasions Immediate Needs Support packages have been spent on prohibited drugs and gambling.
23. The NSWPF requests that the review considers ways of making the expenditure of payments that are received under the scheme more accountable to ensure that financial support is spent as intended.

#### Reporting

24. NSWPF is committed to ensuring its systems and procedures for reporting and performance measurement assist NSWPF in upholding the Charter of Rights and obligations under the Act. We will continue to work with the Commissioner for Victims Rights to ensure best practice in this area.

