

Statutory Review of the *Victims Rights and Support Act 2013.*

Full Stop Australia's submission to the NSW Department of
Communities and Justice, July 2022.



Full Stop Australia acknowledges the traditional owners of country throughout Australia, and their continuing connection to land, sea and community. We pay our respects to them and their cultures, and to elders both past and present.

Introduction

1. Full Stop Australia (FSA) is an accredited, nationally focused, not-for-profit organisation which has been working in the field of sexual, domestic and family violence (SDFV) since 1971. We offer expert and confidential telephone, online and face-to-face counselling to people of all genders who have experienced sexual, domestic or family violence, and specialist help for their supporters and those experiencing vicarious trauma. We also provide best practice training and professional services to support frontline workers, government, the corporate and not-for-profit sectors. Finally, FSA advocates with governments, the media and the community to prevent and put a full stop to sexual, domestic and family violence.
2. FSA, as a national service, aims through its advocacy work to support our colleagues in all states and territories who are working tirelessly on the ground to improve the lives of victim-survivors of sexual, domestic and family violence. We aim to use our experience of law reform in different jurisdictions to advocate for consistent approaches to sexual, domestic and family violence nationally.
3. Full Stop Australia participates in the NSW Victims of Crime Interagency (VoCI) and is a member of the NGO collective of members of the VoCI. We would like to extend our sincerest thanks to Liz Snell from Women's Legal Service, Renata Field from Domestic Violence NSW and Sarah Dahlenburg from the Mid North Coast Legal Centre ("the working group") for all of their work on behalf of the NGO collective and other interested organizations to undertake extensive consultation and preparing a draft of these recommendations and a guide for organisations in preparing their submissions. We have utilised much of the content of that guide in the preparation of this submission. Full Stop Australia also consulted with our clinical staff, all of whom are highly qualified counsellors and social workers who specialise in trauma informed practice.
4. We note that the draft recommendations prepared by the working group considered it appropriate to order the recommendations based on those that should be implemented by the end of 2022 and those that should be implemented by the end of 2023 and we have adopted that categorisation.
5. The purpose of this review is to ensure that the policy objectives of the *Victims Rights and Support Act 2013* (the Act) remain valid and that the terms of the Act remain appropriate to meet those policy objectives. We also note that the review is welcoming comments on any other matters related to the Act. The Act itself is intended to provide the overarching legal framework for the promotion of the rights of victims and the

accessing of supports. It also established the Victims Support Scheme (VSS) and the four pillars under that scheme: counselling, financial assistance for immediate needs, financial assistance for economic loss and recognition payments.

6. As a general proposition, we do not consider that the current act is working well for victims of crime, nor is it achieving its underlying objectives (namely to promote the rights of victims and provide them with the adequate supports) and in particular we believe that the VSS is failing victim-survivors of sexual violence and child sexual abuse. We know that many victim-survivors find the VSS system inaccessible and re-traumatising. We are particularly concerned about recent attempts to audit victim-survivors who have access immediate needs support payments (INSPs) as this runs contrary to all current notions of trauma-informed practice.
7. We consider that the VSS needs improvement in a number of respects and the time has come for the Charter of Victims' Rights to be significantly strengthened so that it properly promotes the rights of victims, particularly adult and child victims of sexual offences. We are aware that members of the NGO VoCI and other interested organisations share this view – as do victim-survivors themselves. This review is timely, in that it follows a number of whole scale reviews into the criminal justice system for victim-survivors of sexual violence in Victoria, the ACT and Queensland and the wholesale transformation of the system of Victims Support in Victoria. The VSS system when initially implemented was a nation-leading system but risks falling behind as other State Governments implement reforms which better center victim-survivor voices.
8. We understand that further consultation will be conducted in relation to this review – we strongly encourage the Government to undertake detailed direct consultation with the NGO VoCI but in particular with victim-survivors and the wider community. In our view, best practice in Government service provision of victim-survivors must be victim-centered and any consultation must be victim-led. We are more than happy to provide further advice and consultation in relation to any aspect of this submission and look forward to providing further feedback to the Government in this regard.
9. We thank you for the opportunity to make a submission. This submission was prepared by Laura Henschke, Taran Buckby and Karina Tjeu. We would be very happy to provide any further feedback on any aspect of this submission. You can contact us at any time if you have any further questions at info@fullstop.org.au.

Recommendations to be implemented by the end of 2022

Adopt a trauma-informed, survivor centric, culturally safe approach and increase accessibility of counselling

Application rates for sexual violence are not keeping pace with victimisation rates

10. While there is unfortunately a paucity of data in relation to the VSS, what we do know from the background paper is that:
 - a) There has been a significant growth in demand for victims support under the VSS. Between the financial years 2012 and 2021, the total number of applications for the VSS grew by **131%**.
 - b) There has been significant increases in the amount of supports provided to victims under each pillar of the VSS including a 1,457% increase in the amount of financial assistance awarded.
 - c) In FY2021, the majority of the applications related to domestic violence (**58%**).
 - d) Between 2014 and 2021 there has been no increase in the proportion of applications relating to sexual assault and the proportion of applications relating to child sexual assault have **actually gone down by 2%**.
11. We have no information regarding how many actual applications there were and of those applications what the outcomes were. We also don't know how many appeals were lodged, on what grounds and what the outcomes of those were. Given this, we are only able to make general assumptions based on the basic data that we have.
12. The basic data we do have is of real concern to us as it does not reflect emerging trends in victimisation for sexual assault. Furthermore, as it is already widely known, sexual assaults remain widely unreported, so the real victimisation rate is likely to be much higher than reported.
13. We note that the background paper states that crime trends have been relatively stable however we don't consider that is the case for sexual violence offences. Whilst there was a decrease in personal crimes such as homicide, theft, and kidnapping in the past 25 years, **sexual assault has increased by 110% nationally**.

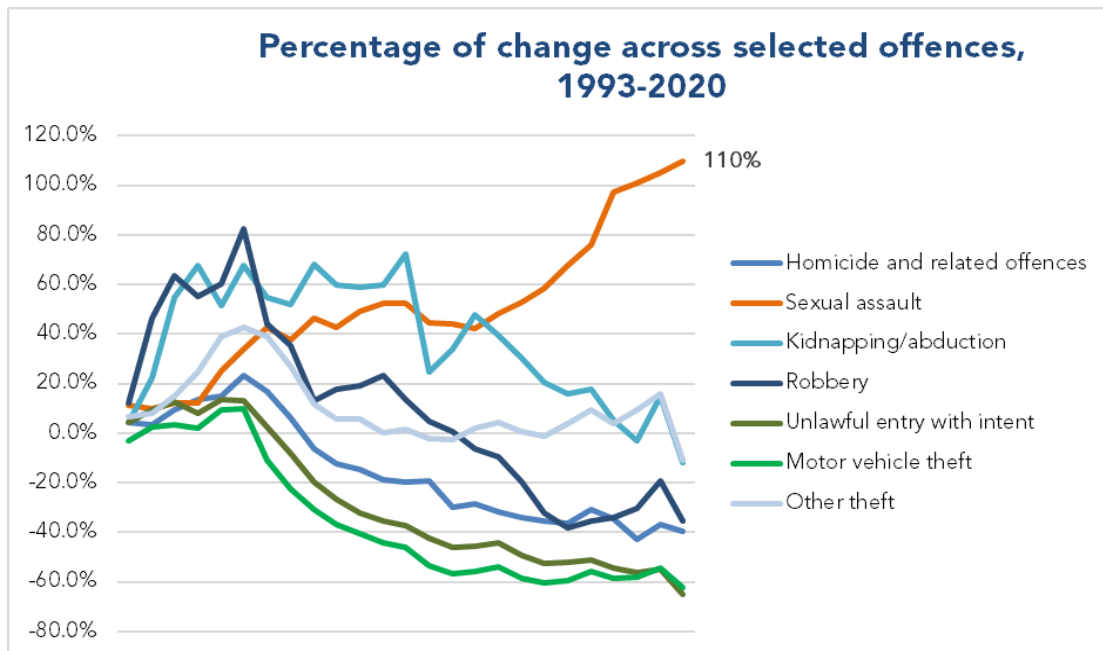


Figure 1.0: Percentage of change across rates of victimisation regarding personal crime.

14. We also know that sexual violence is severely under-reported. ABS statistics show that only 13% of victims report a sexual violence incident to police.¹ The most common reasons why women do not report the incident to police include that they did not regard the incident as a serious offence (34%) and they felt ashamed or embarrassed (26%).²
15. We consider that the discrepancies in the data reflect what we understand to be the case through our work – that the VSS is not working for victim-survivors of sexual violence. The biggest issue with the VSS in our view, is that it is not operating in a trauma-informed manner and as a result, victim-survivors are either not having their applications approved or not applying at all. For example, our counsellors said

“Victim/survivors often find the forms difficult and emotional. It can be triggering and require emotional support afterwards.”

“Comorbidities of mental health, learning disability or even just the impact of trauma impacts make it difficult to find information and complete the forms.”

¹ ABS, *Sexual Violence - Victimization* (2021), <https://www.abs.gov.au/articles/sexual-violence-victimisation#key-statistics>

² Ibid.

Another counsellor explained that the quality of counselling services under VSS need improvement saying

“Further support for counsellors: VS provides NO support to counsellors, not training, supervision, VT management etc. This is highly irresponsible and not appropriate for trauma specialist support. -Higher pay: To attract counsellors that are specialized and experienced intrauma the pay cannot be 120\$ an hour. This is not even equivalent to what is recommended by APRAH or AASW for general counselling or what common rates are across the country.. let alone for a trauma specialist service. For this reason I consistently receive negative feedback from clients re what their experiences have been with counsellors or the lack of availability of these (they prioritize medicare or other referral pathways). - A quicker and more seamless process of approval (preferably with no need to have a medical/support form with application)”

We will now go into more of these concerns in depth.

The complexities of trauma and the need to offer specialised, highly skilled counselling services to victim-survivors

16. The impacts of sexual violence are far-reaching for the individual and the community. Impacts for individuals include relationship breakdown, financial and housing insecurity, mental and physical injuries and ill health, substance abuse issues, complex trauma, and disrupted social and economic engagement.³ For children, the impacts of being exposed to sexual violence are magnified. Some common trauma impacts include the development of mental health issues, sleep disturbances, learning difficulties and behavioural problems. There is also evidence that living with sexual, domestic and family violence makes children more vulnerable to other forms of child abuse and neglect, including being sexually assaulted and/or using problematic and sexually harmful behaviours against other children.⁴

³ AIHW, *Family, domestic and sexual violence*, Australian Institute of Health and Welfare, (16 September 2021), <<https://www.aihw.gov.au/reports/australias-welfare/family-domestic-and-sexual-violence>>.

⁴ AIHW, *Family, domestic and sexual violence in Australia: continuing the national story 2019*, Canberra, Australia: Australian Institute of Health and Welfare, <<https://www.aihw.gov.au/getmedia/b0037b2d-a651-4abf-9f7b-00a85e3de528/aihw-fdv3-FDSV-in-Australia-2019.pdf.aspx?inline=true>>.

17. More broadly, sexual, domestic and family violence also impacts upon the wider community, placing greater strain on families, workplaces, social, health and justice service systems. Intimate partner violence is estimated to cost the Australia economy over 22 billion each year.⁵

18. A number of our counsellors are approved Victims Services counsellors who have been providing counselling through Victims Services for a number of years. However, all of our counsellors are highly specialised practitioners, all of whom are experts in trauma informed practice. Our counsellors tell us that sexual, domestic and family violence causes complex and long lasting trauma which requires a specialised, holistic responses over the course of victim-survivors life – healing from trauma is not a “quick fix” As our counsellors said in our consultation

“The impact of trauma is long lasting and often takes extensive support over a period of time to see positive change”

“The impact of trauma isn't resolved in one short burst and can come back again and again over a person's life.”

19. We consider that the VSS could be improved in two main ways to make it more trauma-informed by firstly, increasing the quality and availability of the counsellors available to clients and secondly by approving the application and approval process itself for victim-survivors.

20. When we asked our counsellors whether the appointment process could be improved for VSS counsellors, our results were mixed. Not all of our counsellors are approved by Victims Services, one of whom stating that they decided not to go through with the application because “I would have to be an active member of the AASW which would cost me \$725”. One counsellor commented that “the application process was seamless in my case, but I am aware for others it has taken months for them to be approved when I am aware there is a lot of clients looking for access to this support”. Most counsellors agreed that the process could be improved, with many saying that the process takes far too long especially given the currently long waiting times to access counselling for clients. One counsellor noted that the process took over 6 months between approval and application.

⁵ KPMG, The cost of violence against women and children in Australia (Report, 2016), 4.

21. However, it should be noted that all counsellors were very concerned to ensure that any proposed streamlining or improvement processes should have no impact on counsellor quality and qualifications if anything, our counsellors considered that all VSS counsellors should be trained in trauma informed practice and working with complex trauma (as are all our counsellors at Full Stop Australia). In this regard, all of our counsellors agreed that a good way to increase access to counselling for clients without compromising quality is to accredit organisations as well as individuals to provide counselling services under the VSS. That way, VSS could outsource much of the quality control process to longstanding and quality organisations like Full Stop Australia and Women’s Health Centres (for example) and make counselling more easily accessible to the wider community. In addition, referral pathways could be improved so that clients could approach accredited organisations to access counselling and support through the application process.
22. In terms of improvements to the application process, in our consultation, 85% of our counsellors (6/7) had supported clients in a claim for an injury relating to sexual violence, 43% (3/7) had supported clients in a claim for injury relating to child sexual abuse and 14% (1/7) has supported clients in a claim for injury relating to domestic and family violence.

The current 22 hour counselling limit

23. Some counsellors agreed that the current 22 hour limit can be useful for an “initial round of therapy/counseling” or for clients with non-complex issues. However, the majority of clients who we support through the VSS system are victims of sexual assault and will very likely be suffering from complex trauma. Counsellors were concerned that there was an expectation that clients would be “healed” with the current 22 hour time limit. Counsellors all agreed that the current 22 hour limit was just not enough to support clients with complex trauma. As our counsellors noted

“The impacts of sexual/domestic violence often requires considerable and lengthy support particularly for CPTSD - 22 hours does not allow sufficient time to address the complex impacts.”

“It takes a few sessions to get to build rapport and establish safety with a counsellor before feeling comfortable to speak about what they have experienced. This may need to be done a few times to find the right fit. The impact of trauma is long lasting and often takes extensive support over a period of time to see positive change. I feel that establishing a 22 hour limit sets the expectation that people should be 'healed' within this timeframe.”

24. Full Stop Australia recommends that the Department of Communities and Justice Improve access to counselling to victim-survivors by:

- a) Increasing 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, LGBTIQA+ aware, trauma informed, with expertise in working with particular priority populations and expertise on particular issues.
- b) Providing more information to victim-survivors about the particular expertise of counsellors and Victims Services assists victim-survivors to access a counsellor when they request this help.
- c) Providing access to culturally safe healing.
- d) Allowing suitably qualified 'organisations' that have the required values, skills and accreditations, to be approved as organisations, which would automatically qualify their employed counsellors. The primary relationship would remain with the organisation not the individual staff members but would increase the availability of quality counselling services to clients of Victims Services.
- e) Developing policies and procedures that recognise the need to apply extended hours of counselling allocation up to 44 hours where appropriate with further extensions as required, and there be a presumption in favour of approving the application unless there are exceptional reasons.
- f) Directing Victims Services' to review approved models of counselling philosophy to ensure holistic approaches are employed along with the other values and requirements for appointment. This is to ensure appointed counsellors do not insist clients only talk about the part of their reaction that the counsellor has perceived as being in relation to the "Crime Event". Trauma informed practice and models of counselling philosophy understand reactions to trauma are complex.
- g) Adequately remunerating Victims Services Approved Counsellors.
- h) Reinstating funding for group work in NSW. Individual counselling is not a substitute for victims wishing to benefit from facilitated peer support group work.
- i) Increasing access to counselling for victim-survivors of crime while they are in custody.
- j) Directing Victims Services to provide professional support (including vicarious trauma support) to counsellors and opportunities for professional development and training.

- k) Removing the two session "no show rule" so that victim-survivors who are unable to attend appointments for reasons beyond their control are able to continue to receive counselling.*

The need for a trauma-informed, culturally safe application and approval process

25. Many of our counsellors identified significant barriers to clients accessing the VSS application process. These included:

"If the client has not reported to anyone and there is a lack of documentation/evidence this can be prohibitive"

"Generally, the financial support is slower than the counselling and I have several clients that have been impacted by this."

"shame, lack of information about availability of services, not understand that a report to police isn't necessary."

"Re-traumatisation - Being required to provide detailed information about abuse"

"The requirement to submit report/evidence of impacts - some people may have never spoken of an assault or abuse or sought support including medical"

"For many reasons there is a lot of shame that victim/survivors of abuse carry and for this reason they may not access medical or psychological support. VS requires a support letter from a professional or service to 'agree with' what has occurred. I believe because survivors are hesitant to ask for this written support due to shame impacts they put off accessing support."

26. We know from our many years working with survivors of sexual violence (in particular survivors of child sexual abuse) that there are significant amounts of shame associated with sexual crimes and as such many survivors do not report for many years, if ever. As such, it is extremely unfortunate that many survivors do not feel secure or confident enough to access the VSS system due to the rigorous standard of evidence required and in addition, we are aware of victim-survivors whose applications have been declined on the basis that they haven't provided any significant evidence that they have reported the crime. Furthermore, we know from experience that the requirement to prove injury is a significant barrier for victim-survivors of sexual violence in reporting to the VSS as their

application to the scheme may be the first time they have come forward to report their experience (apart from perhaps, to the police). Furthermore, many victim-survivors of sexual violence are victim-blamed by society further isolating them and discouraging them to come forward. For this reason, it is **absolutely imperative** that the application process is as trauma informed as possible.

27. Since changes were introduced in July 2020 to the VSS, Victims Services has required victim-survivors to collect their own evidence to support their application (primarily in relation to the harm suffered as a result of the act(s) of violence). We agree with our colleagues in the NGO sector that this places an unnecessary and additional burden on victim-survivors, many of whom are re-traumatised when they are asked to collect evidence to support their application. Furthermore, many applicants who are unrepresented, from low-socio economic backgrounds, do not speak English or are simply in crisis may be unable to collect evidence on their own or may see the burden of collecting evidence as too high and therefore, decide not to make an application or have their application dismissed due to lack of evidence.
28. We submit that not only is this change directly contrary to trauma informed practice, but it has severely curtailed many victim-survivors' ability to access the scheme (which is in itself, contrary to the principles of which the Act is based). Further, we understand from our colleagues in the sector that this change has only served to shift the burden of collecting evidence to organisations such as Community Legal Centres and other support services without the increased resourcing. This is not only difficult on survivors, but also on support services who may in some circumstances be forced to turn away survivors or who have long waiting lists.
29. We understand that the Government committed to reviewing this change within six months. A review was undertaken by Victims Services with submissions due in March 2021. Submissions to this review have not been published, nor has the final report. There have been repeated calls for the publishing of submissions and the report.⁶
30. We are also concerned that survivors are required to provide bank details upfront when making an application for restitution. We are concerned that this could enable financial abuse where a perpetrator may have access to a joint bank account or otherwise gain access to the survivors' bank account through other means. Furthermore, given victim-

⁶ See for example, Open Letter to Attorney General re additional barriers for victim-survivors to access counselling and the increasing lack of transparency and accountability of Victims Services, 29 November 2021 [Open-letter-to-Attorney-General-re-Victims-Services-FINAL-with-endorsements.pdf \(fullstop.org.au\)](https://www.fullstop.org.au/wp-content/uploads/2021/11/Open-letter-to-Attorney-General-re-Victims-Services-FINAL-with-endorsements.pdf)

survivors are required to constantly navigate their own safety, and the often long delay in approving applications, a victim-survivors' bank details may change between the time of lodging an application and payment. Finally, we submit that providing bank details upfront implies that a victim-survivor has a strong likelihood or automatic likelihood of success and this could be even more traumatising for victim-survivors who are told they aren't successful. We consider that not only should bank details be provided after a successful determination, but that victim-services should work with victim-survivors and their support workers to be flexible in certain cases with different forms of payment for safety reasons.

31. In addition, we note that for trans people (binary and non-binary) who were born in NSW and who have not undergone gender affirmation surgery and cannot update their gender markers on identity documents, this can cause challenges in having ID documents that match gender experience.

32. *Full Stop Australia recommends that the NSW Government:*

- a) *Urgently legislate the removal of the requirement to separately prove injury in Victims Support applications.*
- b) *Direct Victims Services to return to collecting evidence or funding services to undertake this work and reimburse services for associated costs.*
- c) *Remove the requirement to provide banking details in the application form consistent with recommendation 3.6 of the Final Report of the Second Year Review of the National Redress Scheme⁷ and institute flexibility in the method and mode of payment in accordance with survivors safety needs.*
- d) *Simplify identity checks by adopting a more flexible approach to identity documents and 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.*
- e) *Direct Victims Services to allow identification documentation requirements to be waived in appropriate circumstances. For example, First Nations people, for homeless people, for trans people (binary and non-binary) who were born in NSW and who have not undergone gender affirmation surgery and cannot update their gender markers on identity documents.*
- f) *Provide more assertive outreach support or assist applicants in the completion of their application including better access to enhanced front-end financial, legal, psychological, indigenous and disability support services to minimise*

⁷ Robyn Kruk (2021) Final report of the Second Year Review of the National Redress Scheme [Final report of the second year review of the National Redress Scheme | National Redress Scheme](#), 15.

trauma and assist victim-survivors to obtain better outcomes consistent with recommendation 3.7 of the Final Report of the Second Year Review of the National Redress Scheme.⁸

Ensuring procedural fairness, transparency and accountability

33. We consider that there are aspect of the VSS which could be improved to greatly enhance procedural fairness and the transparency and accountability of VSS. These changes would ensure that the VSS is working more effectively for victim-survivors.

34. We understand from our colleagues at Community Legal Centers, that Victims Services do not currently advise applicants or their representatives of the earliest date on when they will determine a matter. This has led to matters being determined prior to all supporting evidence being lodged (especially in circumstances where applicants have had difficulties obtaining supporting information as discussed above or are just unaware or unable to understand how to properly support their application). This is particularly unfair to more vulnerable applicants and unintentionally benefits applicants who have more supports in place. If applications are rejected, not only is this traumatising for victim-survivors, but applicants are then required to seek an internal review of the decision and have their further evidence considered. We consider this is a lack of due process and out of step with best practice in trauma-informed support. We also consider that this issue could be easily rectified by Victims Services informing the applicant when their matter is due to be determined and allowing the applicant an opportunity to provide further supporting evidence within a reasonable timeframe.

35. We also understand from our colleagues at Community Legal Centers, that Victims Services are no longer able to provide applicants access to police records. This presents serious difficulties for an applicant in preparing their application as applicants are unable to address any issues arising from the police report of the act of violence without actually reading it. In addition, we understand that on appeal to the NSW Civil and Administrative Tribunal, Victims Services do not automatically provide police records to applicants as evidence they rely upon on to make their decision. This means that a Summons is required to be issued which may be difficult for many unrepresented victim-survivors but also causes unnecessary delays in proceedings. We consider that this is also potentially contrary to Victims-Services' obligations as a model litigant. We consider that procedural fairness dictates that an applicant must be able to see the evidence relied upon in decision making. We are not aware why this change was made or the rationale behind it

⁸ Ibid.

given victim-survivors are entitled to access police records pursuant to the *Government Information (Public Access) Act 2009* (NSW).

36. We are aware that Victims Services have also commenced auditing INSPs randomly and also requiring the provision of receipts before second and subsequent INSPs are considered. We also understand that there is little flexibility for victim-survivors to demonstrate how they have spent funds.
37. We consider these practices to be extremely concerning and only serve to reinforce harmful myths and stereotypes about victim-survivors of domestic violence. It also seems unduly burdensome and unfair to require particularly vulnerable victim-survivors (such as those who are in social housing, from low socioeconomic backgrounds or who are homeless) to keep receipts for such a long period of time (5 years). Victim-survivors will often not have access to receipts as they have fled violence and left belongings. Victims Services should provide other options for victims to explain expenditure of INSP grants (for example by demonstrating that certain items have been bought, such as by taking photos).
38. Finally, we note that comprehensive data was previously published annually on the NSW Victims Compensation Scheme through the Victims Compensation Tribunal Chairperson's Annual Report. The last data profiles on the VSS were published in 2017-18. Minimal data was included in the Department of Communities and Justice recent Annual Report. We are firmly of the view that publishing comprehensive data about the operation of the Scheme is vitally important for transparency and accountability and to enable the sector and the wider community to understand and advocate for how the VSS might be improved (or conversely, for how it is working well). Since the updating of the Victims Services website in September 2021, all previous data profiles about the operation of the Victims Support Scheme, Victims Compensation Tribunal Chairperson's Annual Reports, Victims Advisory Board reports and other reports, including the report on piloting of counselling in prison have been removed. We don't understand why this data has been removed and we submit that this data should be made easily accessible.
39. *Full Stop Australia recommends that the Department of Communities and Justice:*
 - a) *Direct Victims Services to inform applicants/legal representatives/advocates in writing of the earliest date by which a matter will be determined.*
 - b) *Direct Victims Services to grant applicants/legal representatives/advocates access to all evidence upon which Victims Services relies upon to make a decision.*

- c) *Direct Victims Services to adopt a more trauma informed approach to the auditing of Immediate Needs Support Package – Domestic Violence.*
- d) *Require Victims Services or its managing agency or Minister to publish policies and guidelines they rely on to make decisions so that victim-survivors and their representatives are more informed when lodging applications.*
- e) *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 previous Victims Compensation Scheme and this data should be published quarterly.*
- f) *Require Victims Service to publish the results of its review from March 2021 in relation to changes made to support for evidence gathering.*

Improving consultation with stakeholders

40. We are growing increasingly concerned with the lack of consultation by Victims Services with the sector but also with victim-survivors themselves. We note that several, significant and impactful changes have been implemented by Victims Services without consultation. Changes that took effect from 1 July 2020 were initially announced by email to stakeholders as changes that would commence within a week. Following many organisations raising significant concerns, there was a period of consultation. There have since been changes to auditing of INSPs and funding for group counselling has stopped. As a general comment, we are unaware whether the Commissioner of Victims Rights has any formal mechanism by which she consults directly with victim-survivors. Conversely, for example, the Victims of Crime Commissioner in Victoria is currently undertaking her first systemic inquiry into Victims Participating in the Justice System and we understand is consulting with victim-survivors directly in addition to consultation with the sector.

41. In September 2021, the Commissioner of Victims' Rights unilaterally amended the Victims of Crime Interagency Terms of Reference to remove any reference to the Victims of Crime Interagency as a consultative mechanism. This was in the face of strong opposition by NGO members of the Victims of Crime Interagency for this not to occur. We continue to advocate for consultation be included in the Victims of Crime Interagency Terms of Reference.⁹

42. In addition, we are also concerned that:

⁹ Above n 6.
PAGE 15

- a) Minutes of the Victims of Crime interagency meetings are no longer published.
 - b) Reports from the Victims Advisory Board are no longer published.
43. We consider it imperative that there are strong consultative mechanisms between the Commissioner Victims' Rights, Victims Services and victim-survivors and their advocates to work collaboratively to ensure a trauma informed, culturally safe response to victim-survivors and so victim-survivors can access the support they need.
44. *Full Stop Australia recommends that the Department of Communities and Justice:*
- a) *Direct the Commissioner of Victims' Rights improves consultation mechanisms by requiring that proper consultation is undertaken before Victims Services makes change. These consultation processes must include ensuring the Victims Advisory Board (VAB) works collaboratively with the VoCI and other appropriate mechanisms with avenues for community organisations to raise issues at VAB meetings and the publishing of VAB and VoCI minutes.*
 - b) *Ensure proper consultation in this review to hear about the experiences of priority populations, including First Nations people, refugee and migrant communities including people on temporary visas experiencing violence, people with disability, LGBTIQ+ communities, people who are homeless, people with lived experience of prison, people in regional, rural and remote areas, older people and younger people and for priority populations and the services supporting them to have input into proposed solutions and be consulted on proposed solutions.*

Recommendations to be implemented by the end 2023

Adopt a trauma-informed, survivor centric, culturally safe approach and increase accessibility

Need to reform time limits

45. As has already been discussed earlier in this submission, there are many reasons why victim-survivors do not identify they have experienced sexual violence, child abuse, child sexual abuse, domestic violence or modern slavery. We are aware of many survivors who have been unable to access payments due to the time limits imposed (even the ten year time limit which seems (on first glance and without intimate knowledge of the nature of child sexual abuse) significant. Removing the time limits for these categories recognises the effect of trauma on victim-survivors accessing the scheme and ensures all victim-

survivors can access the scheme. In addition, claims for financial assistance often arise out of the 2 year time limit due to the long term effects of the act of violence. The Scheme should remove all time limits to allow victim-survivors to access the scheme when the claim arises.

46. Full Stop Australia recommends that the NSW Government:

- a) *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.*
- b) *Remove upper time limits on recognition payments for victims of domestic violence, sexual assault and child abuse as well as victim-survivors of modern slavery..*
- c) *Remove the 2-year time limit for financial assistance for victims of domestic violence, sexual assault, child sexual abuse and child abuse as well as victim-survivors of modern slavery including for loss of actual earnings and medical and dental expenses.*

47. We understand from the working group that the standard of proof for determining eligibility for redress under the National Redress Scheme for Institutional Child Sexual Abuse (NRS) is "reasonable likelihood". According to the *National Redress Scheme for Institutional Child Sexual Abuse Act 2018*, reasonable likelihood means "the chance of the person being eligible is real, is not fanciful or remote and is more than merely plausible" (see sections 6 and 12 of the [NRS Act](#)).

48. This standard of proof was recommended by the Royal Commission into Institutional Responses to Child Sexual Abuse in its *Redress and civil litigation report* (2015). The Royal Commission concluded that the standard of proof for a redress scheme should be lower than the common law standard of proof. The Royal Commission was of the view that a lower standard of proof was appropriate, given that redress payments are not intended to provide compensation equivalent to common law damages and that redress schemes do not purport to make findings of liability based on common law principles (see pp. 367-376 of the Royal Commission's [report](#)).

49. An independent review of the National Redress Scheme was conducted following the second anniversary of the Scheme. The review concluded that the standard of "reasonable likelihood" remained appropriate. However, the review found inconsistencies in the way the threshold was being applied and recommended that the Scheme review its policy guidelines and training materials to ensure appropriate guidance is provided to decision-makers. The review also raised concerns that the

Scheme's Assessment Framework did not impose one consistent standard of proof. It recommended that the "reasonable likelihood" standard of proof should be prescribed for all decisions relating to an application

50. The findings of the Second Year Review of the National Redress Scheme reiterate the importance not only of legislating a lower standard of proof for determining eligibility for redress, but also ensuring that decision-makers are appropriately skilled and equipped to apply the threshold consistently and to assess applications in a survivor-focused and trauma-informed manner.

51. Full Stop Australia recommends that the NSW Government legislate the standard of proof of a "reasonable likelihood" test for all payments consistent with the National Redress Scheme for people who have experienced institutional child sexual abuse.

Reforming the forms of evidence required for applications

52. Currently, there is a requirement to provide quite specific forms of evidence to support a Victims Support application. For example, a police report, or a report by a Government agency or a non-government organisation funded to provide support to victims of crime, that are sufficient to support, on the balance of probability, the applicant's claim to be a victim of an act of violence or act of modern slavery as well as a medical, dental or counselling report verifying injury are required for a recognition payment.

53. We consider that it should be sufficient that an applicant provides evidence to meet the standard of proof of "reasonable likelihood". In this regard, we note our comments above in relation to this standard but not as well that as the assessment process doesn't, of itself, have the same powers as a Court process (ie. the ability to issue subpoenas, compel witnesses, cross-examine etc) it seems unfair to impose the same burden on victim-survivors in establishing their claim. We also consider that the form of evidence should not be prescribed. In the case of actual loss of earnings for example, you are required to provide "full particulars" of the economic loss, including a statement from the employer to confirm loss of earnings which includes name and address of employer and period of absence from work. It may not be possible to obtain such prescribed documentary evidence. A real clear example of this is where your employer or a co-worker may be the perpetrator of the violence for which you are seeking economic loss, eg modern slavery or sexual assault.

54. In addition, Community Legal Centers 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.

55. *Full Stop Australia recommends that the NSW Government:*

- a) *Direct Victims Service to remove any prescriptions on the forms of evidence required to support a Victims Support application.*
- b) *Legislate amendments to enable Victims Services to pay third parties for GIPA expenses and other evidentiary requirements such as medical reports separate to financial assistance.*

Strengthening recognition payments

56. We note that there has been no increase in VSS payments since the VSS was introduced in May 2013 (whether to increase with indexation or otherwise). This does not recognise the extreme harms caused by this offending to the victim-survivor themselves but also to the wider community. It also sends the wrong message to victim-survivors that the State will not be supporting them in their recovery and that their pain does not matter.

57. *Full Stop Australia recommends that the NSW Government provide greater recognition of sexual, domestic and family violence, including child abuse and sexual violence and modern slavery through higher recognition payments. These payments should increase in value with the current categories shifted to higher categories:*

- a) *Acts of violence currently resulting in a Category B recognition payment should be elevated to Category A (\$15,000).*
- b) *All victims of sexual assault should be awarded at a minimum \$10,000.*
- c) *Payments need to be indexed annually and should not ever decrease despite indexation.*
- d) *Choking, suffocation, strangulation or attempts to choke, suffocate or strangle should be specifically included at a minimum as a Category C recognition payment.*
- e) *Category B recognition payments should be expanded to include domestic violence involving violence that is one of a series of related acts.*
- f) *Better recognition of modern slavery through higher recognition payments.*

Improving access to economic loss payments

58. We are aware of many clients who are not able to access economic loss payments due to their inability to obtain evidence of such economic loss from their employers. The shame and stigma of reporting the act of violence is also a hindrance to many of our clients. As one of our counsellors said in our consultation

“Urgent financial assistance for people unable to work following sexual violence does not come quickly enough. The requirement to speak with employers to obtain proof of missing shifts/days of work can lead to additional stress etc. They are unable to work and therefore the idea that they can put together a complicated brief of information is unreasonable.”

59. *Full Stop Australia recommends that the NSW Government improve access to economic loss payments by:*

- a) *Resourcing Victims Services to actively support victim-survivors to obtain evidence of claims of economic loss or provide warm referrals to appropriate services when they are unable to do so.*
- b) *Improve access to economic loss payments for victim-survivors engaged in casual work.*
- c) *Clarification and simplification of the calculation of loss of actual earnings and ensure that the method of calculation is embedded in the victims support legislation. We consider that further consultation on this specific issue is required.*
- d) *Remove the prescriptions on the type of evidence required to establish economic loss should not be prescriptive, as this can be a barrier to access, for example, where the employer is the alleged perpetrator (eg modern slavery).*

Critical need for a wider range of immediate needs support payments which cater to specific groups

60. As has already been highlighted in this submission, the harm caused by sexual violence is serious, complex and widespread. Many victim-survivors of sexual violence have immediate needs and are required to flee the violence they have experienced. We consider that the current system does not adequately cater to these victim-survivors and again sends the message that the VSS does not properly recognise or cater to victims of sexual abuse.

61. *Full Stop Australia recommends that the NSW Government introduce and immediate Needs Support Payment – sexual violence.*

62. We agree with our colleagues at PWDA that the needs of victim-survivors with a disability need to be better understood. Disability support (such as arranging for attendant care in a refuge or for an Auslan or sign interpreter), is very expensive. The cost of such support is likely to be a barrier to leaving situations of domestic violence especially for victim-survivors in lower social economic backgrounds but also for survivors who are subject to emotional abuse and coercive control (where the perpetrator may have access to all the finances). We consider it a great injustice that women with a disability must continue to live in violence situations because of a lack of government support to assist them to leave. We note that victims-survivors of violence with a disability may currently be able to claim disability support expenses as immediate needs. However, this leaves them with an impossible choice as they would likely have to choose between these expenses and other basic needs such as clothing and furniture. We consider it unacceptable that we live in a society where victim-survivors with a disability are forced to make a choice between essential disability supports and immediate needs such as clothing and furniture.
63. To help ameliorate these gaps, PWDA have been advocating for the addition of a new victims support payment called a Disability and Domestic and Family Violence Crisis payment. They propose that this payment should be modelled on the Victorian Family and Domestic Violence Crisis Response Initiative, which is:
- a) A maximum of \$9000 over 12 weeks;
 - b) Available for women with disability and/or women whose child/ren have disability where an act of violence took place in NSW (however, this definition should be guided by self-identification of disability in collaboration with a domestic and family violence service provider and in line with the World Health Organisation definition);
 - c) Covers the standard array of disability supports including: personal care, Auslan or sign language interpretation, assistance with providing care for children, assistance with meal preparation, shopping and other daily needs.
64. We note that the National Disability Insurance Scheme (NDIS) does not provide a crisis response service, therefore it is all the more important that States and Territories provide a Disability and Domestic and Family Violence Crisis payment. If the NDIS is unable to provide the required assistance before the end of the 3- month period, the Disability and Domestic and Family Violence Crisis payment should be available for up to an additional 3 months.

65. We consider that this payment should be a separate payment and in addition to the recognition payment, \$5,000 maximum amount for immediate needs and the \$30,000 maximum amount for economic loss.
66. *Full Stop Australia recommends that the NSW Government add a new Victims Support payment called a Disability and Domestic and Family Violence Crisis payment.*
67. We also understand from our colleagues that there are issues with victim-survivors who try to claim financial support but are receiving a Federal Government Special Benefit payment. Victims Services publications indicate that a Centrelink payment should not be affected by a VSS payment. Generally, recipients of VSS payments should be able to get the full benefit of the payment without their Centrelink benefit being affected. However, we understand that there is an exception with Special Benefit. This payment is treated differently because it is discretionary. The other income support payments are legislated entitlements if a person satisfies the criteria for eligibility.
68. The *Social Security Act 1991* (Cth) says that Special Benefit **may** be granted if the person is not eligible for any other income support payment and the person is “unable to earn a sufficient livelihood”. The policy guide states that a person has to be in financial hardship as well as unable to earn a sufficient livelihood, and that Special Benefit is not payable if the person has more than \$5000 in available funds.
69. We understand from our consultation that it can be difficult for people on Special Benefit to advocate they get the full benefit of the VSS payment without impacting their Special Benefit. Not only is this process distressing and re-traumatising but in our view, it is penalising some of our most vulnerable citizens (ie. those with little to income who do not qualify for any other income support payment). Arguably, the government should be trying to provide as much support as possible to people in these situations
70. We submit that Victims Services should be advocating to Services Australia for amendments to the Social Security Guide that will protect recipients of Special Benefit and allow them to get the full benefit of VSS (or equivalent) payments without their Special Benefit being affected. This is particularly important for victim-survivors of domestic violence, sexual violence, child abuse, child sexual abuse and modern slavery.
71. *Full Stop Australia recommends that the NSW Government advocate to the Federal Government for amendments to the Social Security Guide that will protect recipients*

of Special Benefit and allow them to get the full benefit of Victims Support (or equivalent) payments without their Special Benefit being affected.

Ensuring access to support for all victims of modern slavery

72. *Full Stop Australia recommends that the NSW Government amend the definition of “victim of crime” and “act of modern slavery” in the Victims Rights and Support Act to include all forms of modern slavery. This requires:*

- a) *The definition of “victim of crime” in s5(1) of the Victims Rights and Support Act specifically referring to sections 5(1)(a) and 5(1)(b) of the Modern Slavery Act 2018 (NSW).*
- b) *The definition of “modern slavery” in s19A of the Victims Rights and Support Act be amended so an ‘or’ exists between s19A(1)(a) and s19A(1)(b) rather than an “and” or it reads “and/or”.*

Access to information by victim-survivors

73. We note that the Victorian Law Reform Commission¹⁰ recently recommended that:

“The Victorian Government should set up a central website (or expand an existing website) to provide people with practical information on sexual violence and their options for support, reporting and justice. It should:

- enable people to connect with support services online or via phone, 24 hours a day
- discuss how to identify sexual violence, support options, reporting options and justice options, and possible outcomes
- be user-friendly and tailored to different audiences, including victim survivors, friends and family and bystanders, and people with diverse needs and experiences.”

74. *Full Stop Australia recommends that Department of Communities and Justice ensure all supports available to victim-survivors of crime are promoted in a centralised website.*

¹⁰ Victorian Law Reform Commission, Improving the Response of the Justice System to Sexual Offences, [Improving the Response of the Justice System to Sexual Offences - Victorian Law Reform Commission](#), Recommendation 18.

Improving access to the Victims Support Scheme for family victims where there has been a homicide

75. *Full Stop Australia recommends that the NSW Government improve access to the Victims Support Scheme for family victims where there has been a homicide by:*
- a) *Removing time limits on funeral payments to accommodate matters where the victim's body has not been found or where the victim's body has not been released for any reason.*
 - b) *Remove time limits for justice related expenses to accommodate matters that do not get resolved within the current period.*
 - c) *Allow additional justice related payments over and above the current limit to accommodate matters that go to retrial and multiple appeals.*
 - d) *Remove time limits on applications for justice related expenses for family victims. In the alternative, though less preferred, the time limit should start from the day charges are laid in relation to the homicide. These expenses should be made available for all homicide related court matters - including mentions, trials, appeals and Coronial Inquests, Mental Health Review Tribunal hearings and State Parole proceedings.*
 - e) *Improve access to Victims Support Approved Counsellors in rural areas, especially where family victims choose to have face-to-face counselling or may not have access to adequate online services. This will require active recruitment of counsellors by Victims Services.*
 - f) *Reinstate option for payment of support person expenses for court or other related needs.*
 - g) *Remove time limits or hours restrictions on counselling for family victims who will need to return to counselling at other stages in their life e.g. appeals, retrials, parole hearings etc.*

Ensure procedural fairness, transparency and accountability

76. We understand from our consultation that the strict 90 day time limit for internal review can be a barrier to many victim-survivors. While victim-survivors may be informed they can seek a review they may not understand what this means and what they need to do. Some may not seek legal advice until very close to the end of the time limit. There is discretion to apply out of time for external reviews. There also needs to be discretion to accept applications for internal review out of time.
77. Following the 2016 statutory review of the *Victims Rights and Support Act* a recommendation was made to:

“Include a new section of the Act to empower the Commissioner to lapse an application for which the supporting evidence was not lodged within twelve months of the last correspondence, unless there is a good reason for the delay, provided that the Commissioner has first attempted to contact the applicant on at least three occasions.”

78. This provision allowed more than 12 months for the collection of evidence. Firstly, Victims Services were responsible for collecting evidence and if they were unable to locate evidence they would request evidence from the victim-survivor. Importantly, there was discretion to allow further time beyond this.
79. Since the changes implemented from 1 July 2020, the burden now falls to victim-survivors to collect their own evidence. Further, Victims Services states in their publications about Victims Support that if supporting evidence is not provided within 12 months of lodging an application “Your application will be closed”.
80. If s41A of the *Victims Rights and Support Act* is to continue more than 12 months should be provided to lodge evidence and it is essential there be a presumption to extend the time to provide evidence, particularly in relation to requests by applicants who are victim-survivors of domestic violence, sexual violence, child abuse, child sexual abuse, modern slavery as well as for family victims.
81. We also understand from our consultation that Victims Services decisions are often brief and do not refer to the evidence considered in making a decision. It is often not clear if all evidence has been considered. Reasons for the decision are often not provided. This makes it difficult for victim-survivors to understand why a decision has been made. It also makes it difficult to appeal a decision (through internal or external review). It is also important that decisions are in plain language so they can be easily understood.
82. *Full Stop Australia recommends that the NSW Government:*
- a) *Amend the Act to provide out of time provisions for internal review for all aspects of Victims Support or alternatively remove the time limit for internal review altogether.*
 - b) *Amend the Act to ensure external review is available for all claims for financial assistance, including immediate needs and economic loss.*
 - c) *Section 41A (lapsing provision) be reviewed and if it continues there be a legislative presumption that people applying for more time to provide evidence will be granted more time, particularly victim-survivors of domestic*

violence, sexual violence, child abuse, child sexual abuse, modern slavery as well as family victims.

- d) *Legislate the requirement for Victims Services to note all evidence considered and provide reasons for their decisions ensuring that decision-makers provide applicants with detailed information to justify their decision in plain English, and that the reasons outline the evidence relied upon to reach the decision.*

Strengthening Victims' Rights in NSW

83. Currently there is one person who is both Commissioner of Victims' Rights and the Executive Director of Victims Services. Since the position of Commissioner was created in 2013, there have been calls for this position to be an independent position.

84. The Queensland Women's Safety and Justice Taskforce¹¹ recently recommended that the Queensland Government establish a victims' commission as an independent statutory office to promote and protect the needs of victims of all violent offences. It recommended that the functions of the commission should include:

- a) identifying systemic trends and issues including in relation to policy, legislation, practice or procedure and potential responses to address these issues;
- b) assisting victims in their dealings with government agencies across the criminal justice system, including through oversight of how agencies respond to complaints; and
- c) monitoring and reviewing the effect of the law, policy and practice that impact victims of crime.

85. In addition, the Taskforce recommended that the commissioner will be authorised to exercise the rights of victims, upon their request and with consent, including in relation to their interactions with police, other government agencies and the courts (similar to the model in South Australia). Finally, the commissioner will have a specific and dedicated focus on victims of domestic, family and sexual violence and First Nations victim-survivors, given their particular vulnerability. This focus may be through the establishment of a deputy commissioner role, or similar.

86. The Taskforce concluded that the establishment of a victims' commissioner as an independent statutory officer was necessary to fill a significant gap in the protection and promotion of victims' rights in Queensland. They considered that an independent victims'

¹¹ Women's Safety and Justice Taskforce, Hear Her Voice Report Two Volume one, Women and Girls' Experiences across the criminal justice system, Recommendation 18.

commissioner will promote and protect the rights of all victims across the criminal justice and service systems. It can monitor compliance with those rights (including by overseeing how agencies manage and respond to complaints), identify systemic trends and issues, and provide an important and ongoing role working towards systemic change (including through influencing policy, practice and systemic reform). It could also have power to intervene and/or represent individual victims where necessary and relevant. Finally, the Taskforce considered that the establishment of a victims’ commission is needed to provide a mechanism for ongoing improvement across service systems so that the rights of Queensland victims are upheld.

- 87. The Taskforce considered the option of a commissioner with a more focused remit – for example, limited to advocating for victims of domestic, family and sexual violence (similar to the role of the Domestic Abuse Commissioner in England and Wales for example). Although the Taskforce saw merit in the focus that a more limited role would bring, the Taskforce concluded that this was outweighed by the need for a body to promote and protect the rights of all victims. The Taskforce considered this as foundational to more concentrated efforts for particular victims and would avoid complex assessments of whether the functions of the role applied in a particular case or issue. The Taskforce does, however, support the functions of the commissioner dedicating resources to focus on the specific needs of victims of domestic, family and sexual violence, and First Nations victims, given their particular needs and vulnerabilities.
- 88. The Taskforce also considered, but rejected, the option of expanding the role of an existing body to perform the functions of a victims’ commissioner. While this option potentially reduces establishment costs and builds on existing expertise, the Taskforce concluded that a victims’ commissioner would need to establish an independent public profile to build confidence in its impartiality and that the establishment of a new body would be preferable.
- 89. In addition, we note that the equivalent Victims of Crime Commissioners in Victoria, the ACT and South Australia are statutory appointments independent from Government as detailed in the following table which extract from each State’s website

Vic	<p>Fiona McCormack - Victims of Crime Commissioner</p> <p>The Victims of Crime Commissioner is an independent statutory officer, appointed under the Victims of Crime Commissioner Act 2015 (External link). This means we are independent from government and other agencies of the</p>
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	<p>justice system. The role of the Commissioner and the Commissioner's Office is to:</p> <ul style="list-style-type: none"> ● advocate for the recognition, inclusion, participation and respect of victims of crime by government departments, bodies responsible for conducting public prosecutions and Victoria Police ● carry out inquiries into issues affecting large numbers, or particular groups, of victims of crime in Victoria, and report to relevant ministers on those issues ● provide advice to ministers, government departments and relevant organisations about improvements to the justice system to better meet the needs of victims of crime ● consider complaints from victims about investigatory, prosecuting and victims' services organisations about their compliance with the principles in the Victims' Charter Act 2006 <p>https://www.victimsofcrimecommissioner.vic.gov.au/</p>
ACT	<p>Heidi Yates - Victims of Crime Commissioner for the ACT</p> <p>The Victims of Crime Commissioner is an independent statutory office, which means that we are funded by the ACT Government, but independent from the Government.</p> <p>Empowered by:</p> <ul style="list-style-type: none"> ● Human Rights Commission Act 2015 ● Victims of Crime Act 1994 ● Victims of Crime Regulation 2000 ● Victims of Crime (Financial Assistance) Act 2016 ● Victims of Crime (Financial Assistance) Regulation 2016 ● Domestic Violence Agencies Act 1986 ● Mental Health Act 2015 <p>https://hrc.act.gov.au/victims-support-act/victims-of-crime-commissioner/#:~:text=Hello%20my%20name%20is%20Heidi,of%20Crime%20Financial%20Assistance%20Scheme.</p>
SA	<p>The Commissioner for Victims' Rights is an independent statutory officer who helps victims of crime and makes sure they are treated according to the Victims of Crime Act 2001.</p> <p>Provides information and support regarding:</p> <ul style="list-style-type: none"> ● Victim rights ● Victim impact statement

	<ul style="list-style-type: none"> ● Getting compensation ● Finding support ● The effects of crime, trauma and how to support a victim of crime ● How the police investigate a crime, making a statement and how bail works ● An overview of how a case can progress through the courts and what to expect <p>https://www.voc.sa.gov.au/</p>
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90. We also note that the Victorian Law Reform Commission¹² recently recommended that the *Victims' Charter Act 2006* (Vic) should be amended to provide that victims of sexual offences have:

- a) the right to be referred to specialist support services within a set timeframe;
- b) the right to specify the gender of the person interviewing them;
- c) the right to specify the gender of a forensic medical examiner;
- d) the right to request flexible arrangements for police interviews;
- e) the right to request an independent review of decisions by police or the prosecution to discontinue or not file charges or indictments after an internal review;
- f) the right to interpretation and translation;
- g) the right to special protections, including the recommended right to pre-recorded evidence;
- h) the right to be notified of applications to introduce confidential communications or evidence of sexual history and, as recommended, the right to be heard on those applications and to funded legal advice and representation for those applications; and
- i) the right to be informed about the recommended restorative justice scheme for sexual offences and, if they choose to and it appears appropriate, to be referred to this scheme.

91. *Full Stop Australia recommends that the NSW Government:*

- a) *Strengthen the Charter of Victims Rights*
- b) *Appoint an independent Commissioner of Victims' Rights*

¹² ¹² Victorian Law Reform Commission, Improving the Response of the Justice System to Sexual Offences, [Improving the Response of the Justice System to Sexual Offences - Victorian Law Reform Commission](#), Recommendation 9.

- c) *The independent Commissioner should regularly consult organisations to ensure cultural safety and to remove barriers to accessing Victims Support with proper transparency mechanisms including regular access to data.*

Restitution

92. We are aware that many victim-survivor choose not to access the VSS due to the fear that the perpetrator will be alerted to the application being made through an order of restitution. In addition, requiring victim-survivors to prove certain circumstances in order to substantiate any waiver of restitution severely compounds any trauma victim-survivors experience. It also delays their access to the scheme while the waiver application is being considered. We don't consider that this approach is safe nor trauma-informed for victim survivors of sexual, domestic and family violence and modern slavery. We consider that a better approach would be to only pursue restitution should the victim-survivor elect that course. In our view, victim survivor choice and control should be **at the center** of any approach adopted.
93. In addition, we don't consider that the current approach to the enforcement of restitution payments is trauma informed nor in accordance with the basic principles underlying the VSS. Immediate Needs payments are intended to help victim-survivors with urgent and immediate needs for their *safety and recovery*. Financial assistance for economic loss is intended to assist with longer term recovery. In our view, given this, financial assistance payments must not be used to offset or pay off any kind of debt, including an order of restitution. This is particularly so for recognition payments. Recognition payments are made to acknowledge a traumatic and violent experience. We consider it in complete opposition to these principles that a recognition payment is able to be used to pay off a Government debt, in particular in circumstances where for many government debts there are alternative mechanisms by which debts can be paid off without the payment of money (ie. the Work and Development Order Scheme).
94. *Full Stop Australia recommends that the NSW Government:*
- a) *In circumstances of sexual, domestic and family violence and modern slavery, legislate a presumption not to pursue restitution unless the victim-survivor elects to pursue.*
 - b) *Prohibit the use of Victims Support payments to service any debts to the NSW Government.*
 - c) *Legislate to ensure that, if a person makes an application to Victims Services for a recognition payment and they have an existing order for restitution or other debt to the NSW Government or Office of State Revenue (such as fines*

debt), Victims Services must notify them about the debt at the time of them lodging the application to so that survivor to take steps to either delay their application or seek assistance to clear those debts in advance (for example, by completing a Work and Development Order program).

- d) *Ensure uniformity of processes within Victims Services and Revenue NSW about debt collection to prevent VSS payments being used to pay off NSW Government debts.*
- e) *Direct Revenue NSW to repay to victim-survivors any VSS payments that have been used to service government debts to Revenue NSW where a Work and Development Order was otherwise available to service that debt.*