

# Scoping the Development of Specialised and Trauma-Informed Legal Services for Victims and Survivors of Sexual Assault.

Full Stop Australia's Submission to the Attorney General's Department  
12 May 2023



## Introduction

Full Stop Australia (FSA) thanks the Attorney General's Department (Department) for the opportunity to provide input on the important issue of developing trauma informed legal services for survivors of sexual assault.

FSA is an accredited, nationally focused, not-for-profit organisation which has been working in the field of sexual, domestic, and family violence since 1971. We perform the following functions:

- Provide 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;
- Conduct best practice training and professional services to support frontline workers, government, the corporate and not-for-profit sector; and
- Advocate with governments, the media, and the community to prevent and put a full stop to sexual, domestic and family violence.

FSA, as a national service, draws upon the experiences of our trauma-specialist counsellors to support people impacted by sexual, domestic and family violence across jurisdictions, as well as our clients and other survivor advocates who are part of our [National Survivor Advocate Program](#), to advocate for victim focussed laws and consistent approaches to family, domestic and sexual violence nationally.

This submission was prepared by Emily Dale, Head of Advocacy, Angela Lynch, Advocacy Manager, and Taran Buckby, Legal Policy Officer. If you have any questions in relation to this submission, please do not hesitate to contact Emily Dale at [emilyd@fullstop.org.au](mailto:emilyd@fullstop.org.au).

## Terminology

Throughout this submission, we have used the term *sexual violence* as a broad descriptor for any unwanted acts of a sexual nature perpetrated by one or more persons against another. This term is used to emphasise the violent nature of all sexual offences and is not limited to those offences that involve physical force and/or injury.

Those who are or have experienced sexual violence are referenced as *victim-survivors*, *people with lived experience* or in the case of their involvement with FSA's National Survivor Advocate program, *survivor-advocates*.

### Consultation with victim-survivors

This submission is informed by invaluable input from survivor-advocates in FSA’s National Survivor Advocate Program, which aims to centre survivors’ voices in FSA’s advocacy work by giving them opportunities to tell their stories and provide input on submissions.

To obtain survivor-advocates’ input, FSA conducted an online survey on their experience accessing support services following sexual violence and their needs in navigating the justice system. Victim-survivors were given a choice about whether to respond to each question.

The survey was distributed in April 2023 and received responses from 43 survivor-advocates from FSA’s National Survivor Advocate Program. Of the survey respondents:

- The majority (86%, n = 37/43) identified as women,
- 74% (n = 32/43) identified as heterosexual,
- 7% (n = 3/42) identified as Aboriginal and/or Torres Strait Islander,
- 12% (n = 5/42) identified as culturally and linguistically diverse,
- 44% (n = 19/43) stated they are currently living with a disability and/or a chronic health condition, and
- The majority (70%, n = 30/43) live in a metropolitan area, with the remaining 30% (n = 13/43) living in a regional, rural or remote area.

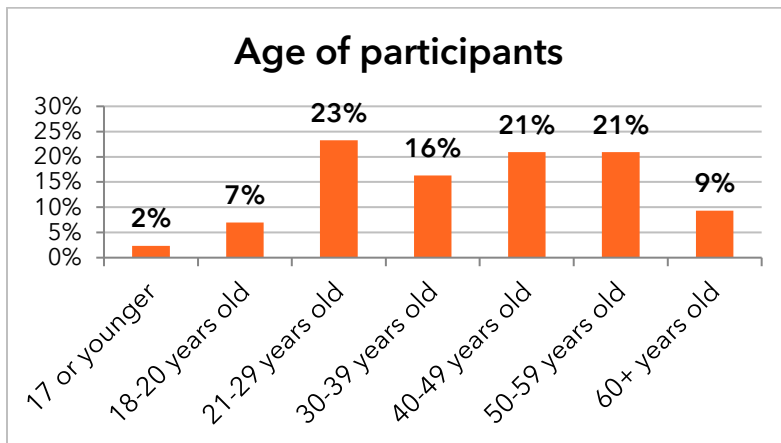


Figure 1: Responses to the survey question: “What is your age?” (43 total responses)

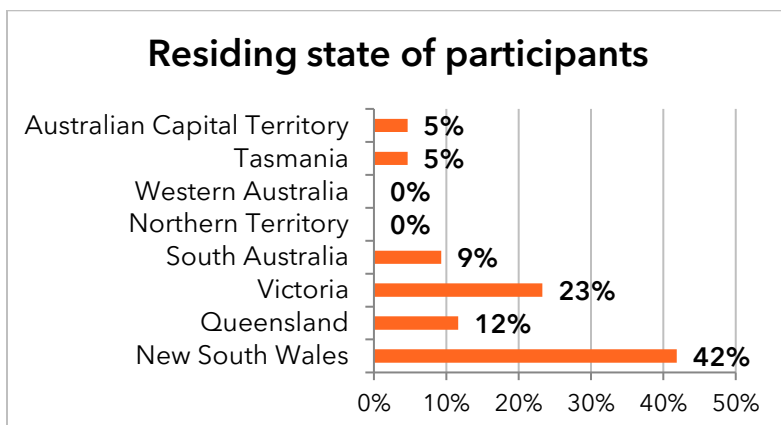


Figure 2: Responses to the survey question: “Which state do you live in?” (43 total responses)

## Part 1: Experiences of victim-survivors

The following responses to questions 1-7 in the Department’s discussion paper *Scoping the development of specialised and trauma-informed legal services for victims and survivors of sexual assault* set out feedback provided by survivor-advocates in response to FSA’s survey.

The graphs and statistics reflect the quantitative results of the survey. The quotes displayed were given by survivor-advocates in response to specific questions. These quotes are a sample of the total feedback received from survey respondents.

### Question 1: Feedback from victim-survivors who sought legal assistance following sexual violence

Of participants surveyed, 53% (n = 23/43) sought legal assistance following their experience of sexual violence. Below is a breakdown of the issues victim-survivors sought assistance with:

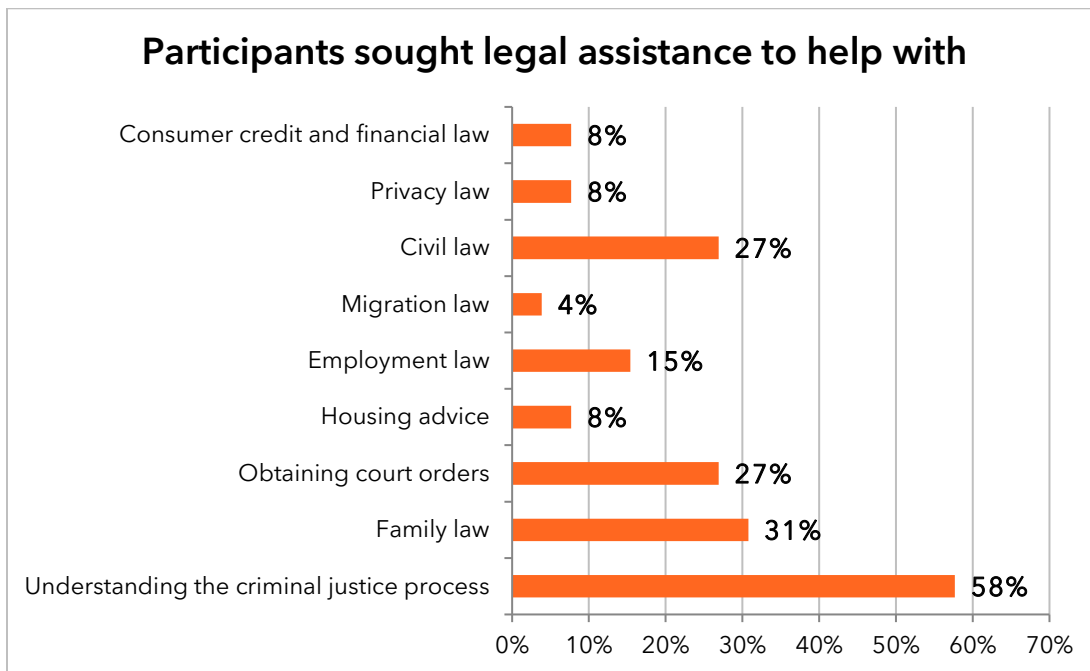


Figure 3: Responses to the survey question: “What issues did you seek legal assistance with? (Select all that apply)” (26 total responses)

When asked what legal services they found most helpful, victim-survivors reported that:

*“I ended up relying upon the DPP as the support services I approached could not provide the information I needed and just wanted to hand out outdated brochures.”*

*“I found that [legal services] did not address my concerns. I was unable to get any help and it has completely drained my finances and resulted in disclosure to the perpetrator and increased risk to me and my children.”*

*“Legal Aid advice line and women’s legal service were the most helpful”.*

*“None, couldn’t find anyone to give me advice.”*

*“Privately paid barrister. I ... fell into a loophole of not being protected by criminal court proceedings so no one was aware of my rights. I had no choice but to hire a Barrister.”*

*“Working Women's Centre SA. They were unable to represent me due to no funding to do so, but the contact I did have with them remains the best source of legal advice and support I received, and more supportive in the ways that I needed to be supported than the lawyers who did end up representing me.”*

*“Websites detailing what to expect and where to get help.”*

*“Meeting with a lawyer before I went to police gave me more conviction when making my statement. I knew what happened was wrong, but I didn't know the legal terminology.”*

*“None. No-one [would] provide legal advice over the phone, and I found it impossible to access [the] information I needed. Ultimately, I sort advice from a private family law firm, which cost me over \$250,000.”*

*“Legal Aid Victoria”.*

*“Legal Aid, DV legal services.”*

Of victim-survivors who provided feedback about the accessibility of legal services, only 16% (n = 4/25) reported that they were able to access the help they needed in relation to all issues of importance to them.

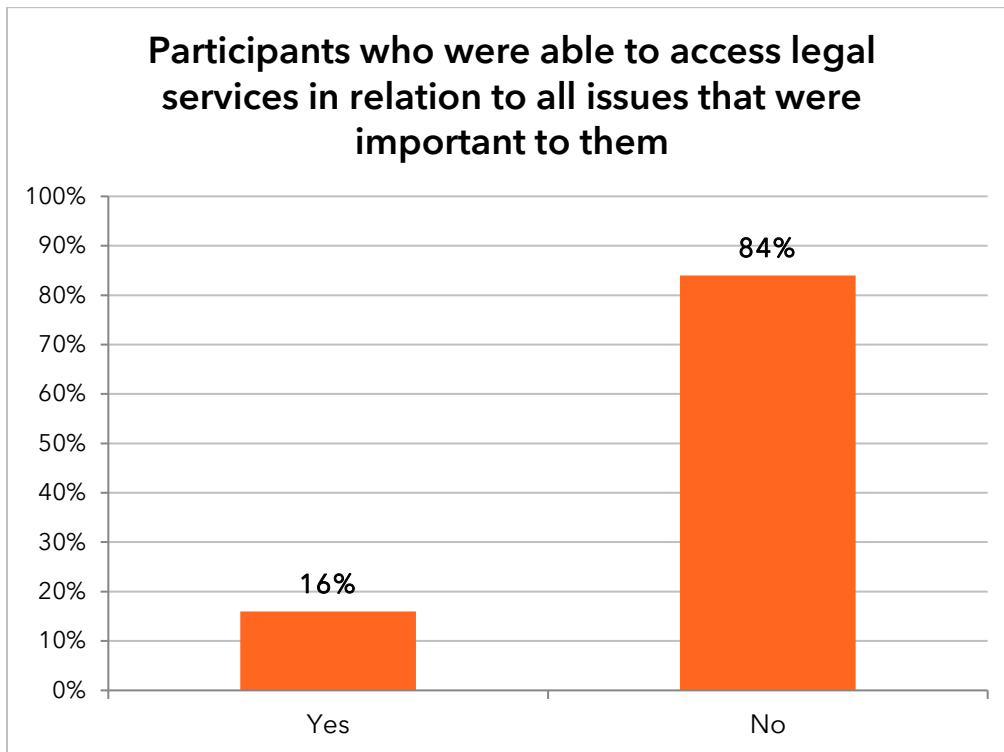


Figure 4: Responses to the survey question: “Were you able to access legal services in relation to all issues that were important to you?” (25 total responses)

In addition to providing feedback about numerous barriers encountered when trying to access legal services (see Question 2 below), participants said they had trouble getting legal assistance for the following issues:

*"No legal advice on the justice process could be adequately provided."*

*"Information on a civil suit is difficult."*

*"Difficult when you are wanting advice specifically about the police and if they were representing me properly."*

When asked how they chose their lawyer, many victim-survivors reported experiencing a lack of control, as most legal support they could access was appointed to them. Victim-survivors provided the following feedback on the process of accessing legal support:

*"I was not given choice or agency in this matter. The community legal lawyer was assigned as a first come first serve basis by legal aid referral."*

*"It was chosen for me I had no say."*

*"After 7 attempts I took first that would help me."*

*"I did not end up finding 'a lawyer'. I'm still at a loss as to how to 'choose one' that will have the appropriate skill set to assist me."*

Overwhelmingly, victim-survivors reported that legal services could have been delivered in a more emotionally or physically safe, sensitive or otherwise trauma-informed way, with 92% (n = 24/26) of survivors providing this feedback. Many participants raised the importance of being trauma-informed when working with victims of sexual violence:

*"While my legal team were experts in their field, I didn't get the sense that they fully understood the nature of the trauma I had experienced, and particularly the intersections between the different forms of violence involved, i.e., gendered, sexual and workplace. I also had the sense that I wasn't even believed by my legal team, which was tough to experience, although I appreciate they were objective senior professionals doing their jobs and trying to make sure I at least had access to a fair process. It was a highly distressing experience though to not feel believed and it's difficult even now to write about."*

*"This was one of my biggest problems - the process and how I was treated as a victim was horrendous, triggering and I felt more often than not that I was the problem."*

*"Yes the legal and justice system needs to be trauma informed, culturally responsive towards women like me from CALD disabled background where I already am facing multiple challenges like homelessness, stalking from ex-partner, financial hardship, language barriers."*

*"Victims need to feel heard and understood and that the person fighting for them is going to fight as hard as they can for you and a lot of the time that isn't delivered and you feel worse and more defeated than when you started or when it happened."*

*"It was all a model situation of how not to do things - I felt totally hopeless and alone, over and over trying to seek justice and all this time later i still have not progressed and re-traumatized and perpetrator has since passed away."*

*"I did not receive a trauma informed response from my legal team, or from the legal system process that I went through, despite the best efforts of my own legal team to provide me with a highly skilled professional service, which they certainly did deliver. I also found the legal system process that I went through to be highly adversarial, which was extremely difficult to experience while I was in an already suicidal state due to the trauma I had experienced. This compounded my distress and I'm grateful to have survived this. I also appreciated that the adjudicator displayed a considerable*

*effort to address me with dignity and respect, and to acknowledge my distress. I will never forget this moment of empathy and respect given to me, amongst the otherwise horrifyingly adversarial context.”*

## Question 2: Barriers experienced by victim-survivors in accessing legal assistance

The overwhelming majority of victim-survivors reported that they experienced barriers accessing legal assistance (90%, n = 28/31).

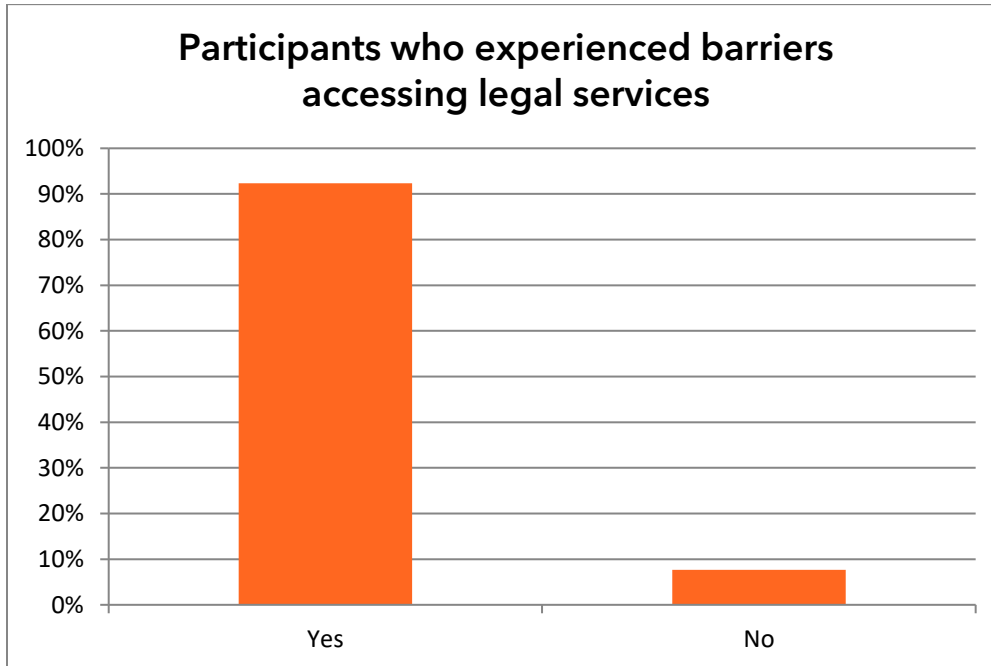


Figure 5: Responses to the survey question: “Did any barriers prevent you from accessing legal assistance?” (31 total responses)

Victim-survivors said that barriers such as cost, limited services in rural areas, long wait lists, discrimination in service provision, and the lack of a clear pathway to legal services made it either difficult or impossible to access legal assistance. Survivors provided the following feedback on barriers they experienced:

*“Regional area. Conflicts of interest even when services were locally available.”*

*“Often very long waiting lists of 6 months or more.”*

*“I was raped and trying to find support to help me understand the process was very difficult - I was treated as uneducated and I should not ask questions.”*

*“Most of the services I tried to get help from were not accessible, they were not trauma informed, they were not culturally responsive and long wait list.”*

*“There was no one stop shop. Everything had to be navigated separately.”*

*“It was just too expensive to go to another lawyer who didn't use the pay only if you win model.”*

*“I approached no fewer than 6 legal firms. Nobody wanted to help because it was a rape case. I was constantly told it was too difficult to prove in a court of law. There are no criminal lawyers to assist, either.”*

*“Sometimes I had questions, which were very simple, but was consistently told that I could not be given legal advice over the phone. Waitlists for any help are ridiculously long, adding to the distress. I found it incredibly difficult to get any advice whatsoever, and was consistently referred from one place to another.”*

*“Nobody was willing to assist without a lot of money and the police held very outdated stereotypical views of gay people and blamed me for what happened for not taking more caution.”*

*“The services were mostly unavailable during covid pandemic, calls/emails left unanswered, racism.”*

*“Cost and also I didn’t find that the lawyers were trauma informed or focused on creating safety for me and my family.”*

*“Financial, mental and emotional capacity to engage and understand the options and the consequences of making certain decisions at time of extreme distress and trauma.”*

Most participants provided feedback that they were not offered legal help following an experience of sexual violence (80%, n = 24/30).

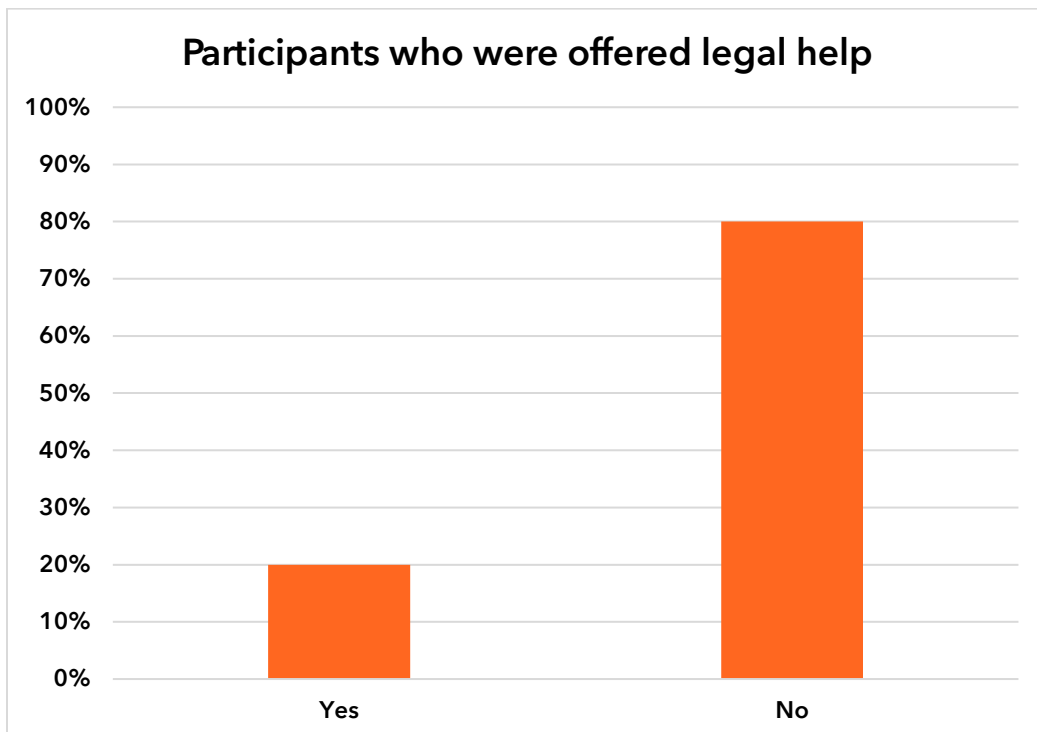


Figure 6: Responses to the survey question: “Were you offered legal help?” (30 total responses)

Finally, feedback from victim-survivors who were not able to access legal services following an experience of sexual violence said it would have been useful to receive information on justice system processes, advice on their rights and legal options, and assistance preparing to give a statement to police. Survivors who did not access legal assistance said they would have found the following services useful:



*“Support to know what my rights were and advice to follow when engaging police.”*

*“A lawyer who understood and was emotionally capable of explaining the process after being raped, what would be expected of me and how the case would proceed - I was continually kept in the dark! Having a court appointed lawyer would assist greatly.”*

*“Legal assistance to collate evidence prior to providing statements to police.”*

*“Being able to talk to someone to get more of an understanding of what my options were and if I was likely to be successful in court.”*

*“Low-cost legal assistance that was trauma informed and accessible.”*

*“An Aboriginal women’s service, at the time I lived in a regional town with little resources.”*

*“Understanding the criminal justice service and victim rights regarding police investigation process.”*

*“[Advice on] what the process looked like and how I could go about it in a way that made the process the least traumatising possible.”*

*“It would’ve been awesome if a counsellor that was trauma informed walked me through each individual step.”*

**Question 3: Non-legal supports required following sexual violence**

Most victim-survivors reported needing counselling (97.62%, n = 41/42) and medical support (61.90%, n = 26/42) following an experience of sexual violence. Some survivors also reported needing housing (21.43%, n = 9/42), financial (30.95%, n = 13/42) and other assistance (30.95%, n = 13/42). Those who required other forms of assistance specified that this included psychology, disability and NDIS, advocacy and employment pathways services.

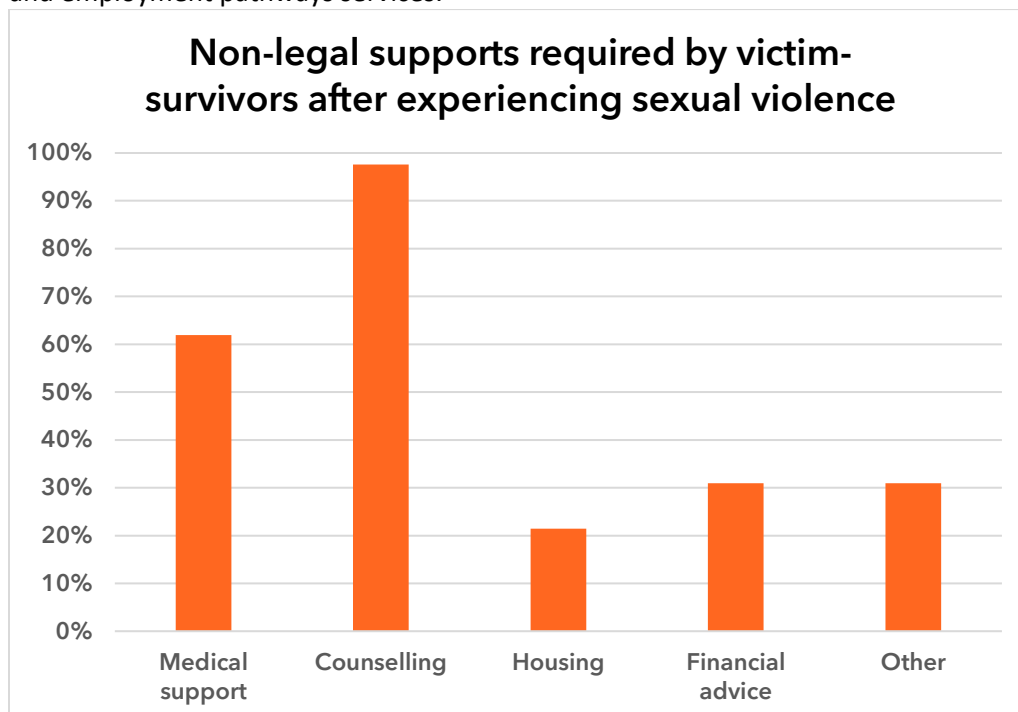


Figure 7: Responses to the survey question: “What non-legal supports did you need after experiencing sexual violence?” (42 responses)

The overwhelming majority of survey participants (90.7%, n = 39/42) provided feedback that it would be helpful if legal services were colocated with other supports so they could be accessed early, easily and safely. Several participants said they would have found it helpful if they could have accessed all relevant services, including legal services, in one place immediately after experiencing sexual violence (or when they first engage with service systems in relation to sexual violence).

Participants provided the following feedback on the benefits of colocation, and ideas for where legal services could be colocated to enhance accessibility and support for victim-survivors:

*"Maybe a separate area of hospitals could be made available [for the provision of legal services]."*

*"When you are in a traumatised state, trying to navigate a situation you know very little about is very difficult and overwhelming. It would have helped a lot if I'd been able to speak with a lawyer about my rights from the start."*

*"Much easier for a person to navigate the entire process with everything in the one place. Legal representative could assist from the start."*

*"For me, there needs to be some separation between the trauma and invasiveness of the medical procedures following sexual assault and the legal side."*

*"I think if someone discloses and is referred to the police, this should be the instance that a legal support professional should be involved and either attend the police station or book an urgent appointment following."*

*"It would be most beneficial if everything was in one place. Police, counsellors, legal and advocates, trauma informed survivors."*

*"It would be particularly helpful if located within the hospital."*

*"It would be nice if Trauma Counsellors and Legal Services worked hand in hand to offer continuity of care. A lot of Trauma counsellors aren't familiar with the heaviness of the Legal system and a lot of legal services aren't familiar with the way trauma manifests."*

*"VicPol sometimes have [sexual offence and child abuse investigation] services provided in hub buildings away from general police duties, inserting legal assistance here could assist the reporting process."*

*"A 24/7 service like 1800 RESPECT would be helpful."*

*"It would be helpful if there was a central phone number that could be provided so victim-survivors know whom to contact to speak to from the legal perspective."*

*"There needs to be a "one-stop shop" for Victim-Survivors."*

#### **Question 4: Reasons for not reporting sexual violence to police**

Of the survivor-advocates surveyed, 64.29% (n = 27/41) reported their experience of sexual violence to police, whereas 33.33% (n = 14/41) did not report sexual violence to police.

Participants who did not report their experience of sexual violence to police identified the following barriers to reporting:

*"Fear of safety, shame and stigma, lack of access to appropriate/supportive police resources."*

*“Distrust, fear, police do not believe Aboriginal women or care, did not know the identity of the perp.”*

*“Fear of police.”*

*“I felt like I wasn't going to be taken seriously or believed. I also felt like the investigation process would be too traumatic to go through.”*

*“Not being believed by parents and therefore no support from anyone.”*

*“Fear of judgment. Lack of understanding of what this could result in. Being such a young age, I waited too long to tell anyone about the assault and thought it was too late to report.”*

*“Shame, ridicule, disbelief, misogynistic beliefs of officers. The victim is degraded and the perpetrator is treated properly.”*

*“Age, understanding criminal justice, lack of support.”*

In addition, some survivor-advocates provided feedback that they did report sexual violence to police, but were dismissed, made to feel unsupported or otherwise let down by the investigation process:

*“I was treated disgustingly by the police and formal complaints are still ongoing as they failed to investigate and discarded my rape kit without my consent.”*

*“As [a] teen [I was] told by police I wasn't a good witness (to my own assault) and that they wouldn't prosecute it. No referral from to support services or rape counselling or legal, no support.”*

*“I was overwhelmed with the police and they were not helpful.”*

*“Police would not bother to take details and record them on file let alone investigate unless the rape was accompanied with a serious assault with serious physical injuries suffered. Then they would concentrate on the physical injuries and leave the rape alone.”*

Survivor-advocates recommended that the process of reporting to police could be improved by providing trauma-informed training to police staff, making support persons available to survivors (including people with lived experience, counsellors and social workers), and a formalised process explaining what engaging with the justice system would look like. Survivor-advocates provided the following feedback on how reporting to police could be improved:

*“Please provide trauma informed training for [police] staff.”*

*“Someone that is independent from the police, that can support and guide you through the process.”*

*“For some survivors, having a lived experience support person present to support them as they understand what they have just gone through... [This person] would need to undergo some form of training before becoming recognised [as a] lived experience support person.”*

*“I used the NSW SARO form, which was fantastic, I would've liked the opportunity to have a more in-depth conversation after filing it to get a better understanding of what my options were.”*

*“Trauma informed support that educates survivors on safety and processes of reporting and taking action.”*

*“Access to a social worker or someone to report to rather than the cops.”*

*“Properly trained and trauma informed policing practices, more time and understanding as traumatised survivors shouldn’t be expected to remember everything perfectly, better interview rooms/facilities, and a dedicated support person to attend.”*

*“Survivors should have support in understanding the process of placing a report with the police.”*

*“A support person who is with you from the start to the finish.... Who advocates on your behalf.”*

*“Giving survivors access to sexual violence survivor-advocates.”*

*“Psychological support. I now understand [this is available] through Victim Services - but I had no idea, so awareness is key.”*

*“Counselling or lawyer consultations as a steppingstone to reporting to police. It’s so daunting going on the police website or calling their sexual abuse hotline, because all you’re told is to go into the station and report the abuse.”*

*“Social worker at police stations supporting people when they report and after.”*

*“Government funded services that provide support to people wishing to report to police, including information about the whole legal process.”*

*“Have a set of officers who deal mainly or exclusively with the sexual assaults of people.”*

*“Have ongoing support until the victim has completed the reporting stage and court case... Free and continuous support for a chosen period, decided both by the victim and the specialists.”*

## **Question 5: Withdrawing from the criminal justice process**

Survivor-advocates who reported their experience of sexual violence to police, and then withdrew from the criminal justice process, reported the following reasons for withdrawing:

*“The whole process exacerbated my [complex PTSD] symptoms. I had to withdraw my case due to medical reasons.”*

*“The attitude from the detectives and the process underwent.”*

*“The guy denied it all, the cops told me I could go to court but likely lose... Also due to the fact I was facing death threats and hate messages that the cops did nothing about except tell me to turn off my phone.”*

*“Lack of evidence. I didn’t report my [sexual assault] for five years, so all DNA and security vision was gone. It was my word against the perpetrator’s.”*

*“The police told me that it was too hard to obtain evidence in sexual assault cases. They said going to court was a traumatic experience for the victim. They were also very deterrent in their language and undermined my entire experience. For example, they told me even though I fought him off, I eventually had sex with him. They said I should have quit my job sooner (my boss is the accused). They said he is rich, powerful, has a lot of influential connections and could make my life hell. They said I was better off forgetting about it rather than letting it send me old and grey. But where is the justice in that? And how does that stop the abuse from happening to someone else?”*

Survivor-advocates provided feedback that the following changes or additional supports might have helped them stay in the criminal justice process:

*"More support being available in regional area."*

*"Reduce the process time. My case went on for 2 years and when he was convicted, he got off via an appeal."*

*"I wish I was provided with therapeutic care and mental health support when dealing with the criminal justice system."*

*"More support mentally as well as not having to sit and see the perpetrator whilst examined and having the police be more accommodating with statements."*

*"Police have a lot to answer for with regards to the investigations into sexual assault as do prosecutors. It becomes about what is winnable not about the crime that occurred. Better victims' support and faster processing of victims' payments."*

*"I still haven't had legal advice but feel that it should have been more fully explained to me that I was withdrawing the charges and that I didn't need to."*

*"A lawyer who could push the case forward. Someone who believed in me. It felt like the police just wanted to push me away. In the end, it felt like they were working for the accused. Obviously, they weren't, but that's how it left me feeling."*

## Question 6: Benefits of legal assistance during the criminal justice process

The overwhelming majority of survivor-advocates said they would find legal assistance helpful in the initial stages of engaging with the criminal justice process following an experience of sexual violence (93%, n = 40/42). Most survivor-advocates also said they would find legal assistance helpful during police interviews and investigations (76.74%, n = 33/42), during meetings with prosecutors (65%, n = 28/42), at criminal trial (62.79%, n=27/42) and after a trial (58%, n = 25/42).

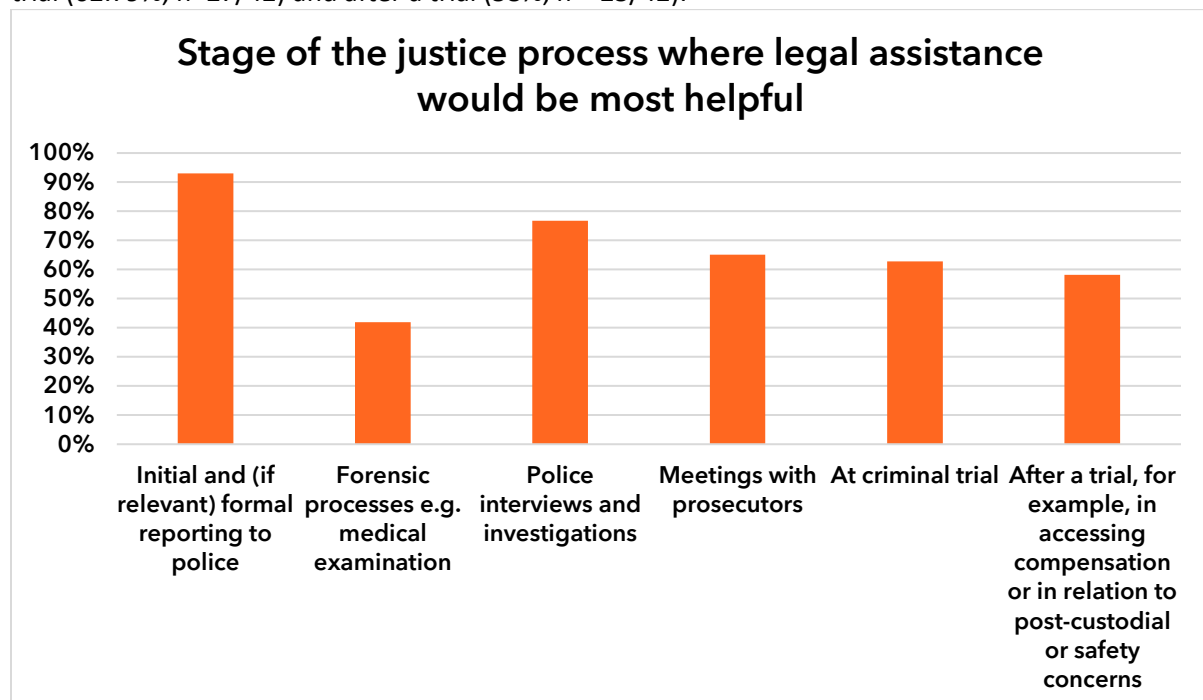


Figure 8: Responses to the survey question: "At what stage of the criminal justice process would legal assistance be most helpful?" (42 responses)

Finally, several participants provided feedback that they would find legal assistance helpful at “every stage” of the criminal justice system process, with some participants specifying that this would have helped them decide whether to continue engaging with the criminal justice system process. As shown in responses to Question 5 above, many respondents felt that their options for continuing or withdrawing from the criminal justice process, and the consequences of doing so, were not well explained to them, which contributed to feelings of disempowerment and poor justice outcomes.

Survivor-advocates provided the following feedback on when in the criminal justice process legal assistance would be helpful:

*“I believe [legal assistance would be helpful] every step of the way - the more we understand the more we can trust!”*

*“Every step of the way. Legal assistance could explain each and every step in the process before the person moves forwards or decides not to continue.”*

*“Dealing with threats of defamation.”*

*“I think any interaction with prosecutors, detectives or at police stations should be with legal support if wanted.”*

*“I didn’t know what I was getting myself into. I wish I had all the facts but then again if I did, I probably wouldn’t have pursued the matter. I only sought legal advice once I was in too deep.”*

*“I would argue that legal assistance is absolutely vital at all of these stages where a survivor has to engage in an adversarial system.”*

## **Question 7: Ideal legal assistance for victim-survivors of sexual violence**

When asked what an ideal legal service would look like to victim-survivors navigating the criminal justice system, survivors-advocates’ responses focused on:

- a service that could be engaged early in the process, which would help them prepare to talk to police;
- the importance of integrated services, which combine access to legal advice with other service systems (such as counselling);
- free or low-cost services;
- lawyers who have been trained in understanding trauma responses and dealing sensitively and empathetically with people who have experienced trauma;
- the importance of offering culturally sensitive legal services;
- a service that helps survivors better understand the criminal justice process, and what they can expect engaging with that process, to address the disempowerment many report feeling; and
- a legal service led by victim-survivors, who have themselves experienced the criminal justice system and are able to provide advice from their own lived expertise.

Survivor-advocates provided the following suggestions on what an ideal legal service would look like for victim-survivors of sexual violence:

*“A service that survivors can engage early for support and advice and to help prepare to talk to police.”*

*"I believe it would look like a lawyer who is trained in DV and rape and understand trauma being appointed to a victim the moment a complaint is lodged."*

*"The lawyer's job is to explain the court process in plain language to ease the trauma."*

*"An ideal legal service and lawyer appointed support from the initial onset is a game changer for convictions and will minimise women withdrawing their cases, getting confused and isolated."*

*"A group run by survivors who understand the deal."*

*"An ideal legal service for survivors would be led by survivors who are working or serving in the criminal justice system. There should equal opportunity for CALD people to work and serve."*

*"One stop location and integrated service."*

*"Understanding what your rights are along the entire process. I don't think the police should be your legal representatives, when they are the ones investigating the crime."*

*"Explaining the expectations of criminal trial and provide services and support to explore any compensation claims etc."*

*"Trauma informed, access to counsellors, transparent, easy to access, cost effective/low cost/free."*

*"Case management through the system, working collaboratively with OPP/Police, providing and advocating for the victim survivor. Free and trauma informed."*

*"Easy to access, culturally sensitive, free."*

*"Ability to have a gender preference for who your supports are."*

*"Trauma informed counsellors and psychologists as well as medical professional together in the one location serving as an advocacy centre to collect evidence in a safe and one-time event."*

*"Survivors having access to survivor advocates from the outset, in wrap around services with legal and psychosocial support. Expert, trauma informed legal representation and advice that understands systemic and structural factors that perpetuate and compound the impacts of violence, and where adversarial processes are avoided as much as possible."*

*"Supportive, linked in with psychology, trauma informed, flexible."*

*"A clear understanding of what legal terminology means as it is unfamiliar vocabulary to so many, e.g., hearings, mentions, diversion, further and better particulars."*

*"Female solicitors."*

*"I'd like to see a court created that only looks after SA and DV cases."*

## Part 2: Full Stop Australia's Recommendations

### Question 8: How can we best ensure legal services are trauma-informed, victim- and survivor-centric, culturally safe and accessible for victims and survivors and service providers?

To ensure that legal services are trauma-informed, survivor-centric and accessible, they must:

- be provided in conjunction with other key trauma-informed supports, such as counselling and social work services; and
- extend to in-Court advocacy, to address feelings of disempowerment and retraumatisation survivors have reported when appearing in Court.

#### *Integration of legal services with other supports*

The delivery of legal services should be integrated with other key supports delivered by trauma-informed professionals, such as counselling and social work services. To this end, we recommend either:

- collocating dedicated sexual violence lawyers at a sexual violence service, either full-time or with lawyers attending on a regular basis. This would enable lawyers to provide legal advice in a trauma-informed setting, where survivors can access a range of services at once;
- collocating social work or counselling support within a legal service dedicated to sexual violence survivors; or
- locating joint counselling and legal services at police stations, so survivors get access to both legal and trauma-informed support in their first engagement with the justice system (who can assist survivors give a statement to police, which many survivors said they would find helpful).

This would ensure that legal services are part of a holistic package of support to survivors.

The benefits of this approach are that it:

- involves trauma-informed support (from counsellors or social workers, who have relevant training) being on-hand to assist survivors to communicate with their lawyers;
- enables lawyers to access guidance from these experienced professionals on trauma-informed ways of communicating with their clients;
- enables legal support to be provided alongside a suite of other crisis supports – a holistic response that matches the reality of survivors' needs following sexual violence;
- makes it more likely that survivors will feel safe and supported when receiving legal advice. To make legal services accessible to Aboriginal survivors, and survivors from CALD backgrounds, linking legal services with culturally safe supports and/or translation services is also key; and
- would enable victim-survivors to access legal assistance early in the process of engaging with the justice system, which 93% of respondents to FSA's survey said they would find most useful.

It is important that "trauma-informed" is not simply used as a buzzword. So that this doesn't happen, the expertise of professionals knowledgeable about, and working to address, trauma should be integrated into the delivery of legal services. While FSA also recommends providing lawyers with training on working with people who have experienced trauma (and the importance of doing this was emphasised in survivor-advocate feedback in response to questions 1-7 above), it is not realistic to expect lawyers to provide a



trauma-informed service on their own, without the on-hand support of trained experts (like counsellors and social workers).

*The importance of in-Court advocacy to address feelings of disempowerment and retraumatisation*

Finally, to increase feelings of empowerment and address the retraumatising effects of engaging with the Court system, FSA recommends making in-Court advocacy available to all survivors appearing in Court proceedings. So many survivors have expressed that they find the process of going to Court retraumatising and disempowering. This can take a huge toll on survivors' mental health, which might have long-term impacts due to frequently long delays in criminal matters being heard (and the possibility of appeal). We think having an advocate in Court whose role is to act in a survivor's best interests would improve that person's experience of the Court process.

To this end, we recommend considering something like the Women's Domestic Violence Court Advocacy Service (WDVCAS) pilot, which has recently been expanded for survivors of domestic violence in NSW. The WDVCAS scheme provides legal advice and advocacy to female survivors of domestic violence at police stations and Courts across NSW, including by providing information about the criminal justice process and legal representation preparing for and during Court matters.

We recommend that lawyers advocating on behalf of clients in Court should (among other things) have standing to intervene in relation to inappropriate questioning during cross-examination.

**Question 9: What legal service delivery approaches or models should the pilot explore as a priority?**

As set out above, FSA considers that the best way of ensuring legal assistance is trauma-informed and accessible early would be to colocate legal services with other key supports, like counselling and social work services.

FSA also considers that relevant legal services should be freely available to all, without requiring means testing. There may be clients who do not satisfy means tests for accessing community legal centre or Legal Aid support, but would nonetheless struggle to pay for expensive private legal fees. FSA considers that making legal support freely available would fulfil the public interest of increasing access to justice for vulnerable people.

To maximise the positive impact of the legal service pilot, the Department should consider how to broaden the range of legal issues on which advice may be given free of charge. In addition to the common issues survivors need assistance with following sexual violence (for example, navigating the criminal justice system, engaging with police and in-Court advocacy), there are a range of other issues survivors may experience, including employment law concerns, the risk of defamation and privacy issues.

To address this reality, the Department should consider a model that (in addition to paid staff) draws on the expertise of a network of pro bono lawyers. This would increase the number of professionals available to provide legal services, be good value for money, and ensure the field is covered in terms of the wide variety of legal issues on which advice may be sought by victims-survivors. If this model were adopted:

- adequate funding would need to be provided so that full-time staff could engage, manage and roster pro bono lawyers, and assess where their skill sets would be of most use; and

- as set out in response to Question 8 above, all legal advice (including advice from pro bono lawyers) should be provided in the presence of a trauma-informed professional, such as a counsellor or social worker.

We have responded below to the specific models the Department's discussion paper requested submissions to consider.

*Legal services co-located with other support services (like health or social services)*

For the reasons set out above in response to question 8, FSA is supportive of this approach.

*Multi-disciplinary centres incorporating specialist legal services*

For the reasons set out above in response to question 8, FSA is supportive of this approach.

*Funding for civil proceedings*

Though there is value in considering this option, it should not be the only action taken to increase access to legal services for survivors. FSA considers that it would not increase access to justice for all survivors, as it would only be useful where a defendant has significant assets and/or if an insurance claim can be made.

*End-to-end legal service support, including in-court legal advocacy*

As set out in response to Question 8 above, FSA supports the provision of free end-to-end support to survivors, including in-Court legal advocacy. The Department may wish to consider modelling in-Court advocacy on support available through the WDVCS program, which is available to survivors of domestic violence in NSW.

We also note that Recommendation 64 of Queensland's Women's Safety and Justice Taskforce, Report 2, recommended the Department of Justice and Attorney General consider the issue of funded legal representation during trial proceedings beyond matters relating to protected counselling notes privilege. FSA would support an initiative of this kind.

*Expanded access to choice and control over how and when victims and survivors report to police, submit to forensic examination, provide other evidence, and engage with prosecutors and the court*

FSA supports survivors being provided with more choice and control over their engagement with the criminal justice process. So many survivors have reported feeling disempowered and retraumatised at every stage of this process – from reporting to police, to forensic examination, to the Court process.

Legal services could address this need by providing information, advice or advocacy in the following areas:

- end-to-end information about criminal justice system processes, and what those processes will require of the survivor;
- the right to privacy and the right to be treated with dignity and respect and in a way that is consistent with Victim's Charters;

- criminal procedure and evidence law, such as appropriate cross-examination and what are considered 'improper questions';
- survivors' rights in presenting evidence, whether it can be videotaped and access to Special Witness Protections;
- bail, parole issues, especially issues that can impact survivors' safety;
- obtaining a domestic violence protection order over and above bail conditions;
- concerns about family law, including child contact and property matters;
- access to victim's compensation and assistance making an applications;
- options and risks with bringing a civil claim; and
- restorative justice options.

Lawyers may be required to assist with other issues, once recommendations from the recent Victorian Law Reform Commission Review and Queensland Women's Safety and Justice Taskforce are implemented. For example, the Taskforce recommended that prosecutorial and police decisions be subjected to a right to review in certain circumstances. There may be issues with DNA and other evidence gathered by police that require a lawyer's intervention.

#### *Restorative justice*

FSA is supportive of a restorative justice model being considered as part of this pilot program. This should be part of a suite of options provided to the victim-survivor, following an assessment of risk related to ongoing physical and psychological safety. FSA notes that any such model would need to be trauma-informed, and the risk of retraumatizing survivors by putting them back in contact with their perpetrator would need to be carefully mitigated. If such a model is developed, it should enable survivors to be represented by both a lawyer and a social worker – to ensure they have access to both legal advocacy and the expertise of a trauma-informed professional.

If the Department proceeds with such a model, FSA asks to be consulted on its development, so we can provide trauma-informed expertise on its design.

#### **Question 10: What legal service gaps and barriers should the pilot prioritise addressing?**

Two key issues are the lack of information for survivors about criminal justice system processes (including immense issues with police communication to victims about their case), and the fact that survivors are disempowered throughout the criminal justice system process.

To address these shortfalls, the pilot should prioritise providing:

- advice to survivors on the criminal justice process, including what reporting to police involves, what to expect from a police investigation, and what the trial process will require of them;
- advice on survivors' legal rights and safety, including in relation to parole and bail laws, their right to privacy and how to avoid a defamation complaint. Currently, it is difficult to obtain legal advice about these issues at free services such as community legal centres and Legal Aid; and
- in-court legal advocacy, whereby lawyers may advocate on their clients' behalf in relation to the giving of evidence, including objecting to improper questions.

Once these key needs have been met, the Department should consider expanding the pilot program to meet additional needs, such as:

- advice on options for obtaining financial compensation or other support, such as by bringing a civil claim or applying for victims compensation; and
- advice on related legal issues, such as employment issues, tenancy issues and family law and domestic violence proceedings.

**Question 11: How should we measure the success and impact of the legal service pilot? What data do we need to collect?**

The success and impact of the legal service pilot should be determined by the experience of victim-survivors accessing support through the pilot.

FSA recommends seeking feedback from victim survivors who access support on the following questions:

- The level of client satisfaction;
- How the client was treated, even if the legal outcome was not positive;
- Whether the client felt supported and believed;
- Whether the client was able to understand the legal advice provided;
- Whether the advice gave the client a clear understanding of the criminal justice process;
- Whether the client clearly understood their legal options; and
- Whether the client thought that receiving legal assistance helped them achieve a better outcome in the criminal justice system.

**Question 12: Are there any other issues that should be considered in the development of the legal services pilot?**

In addition to the points raised above, FSA would support specialist courts being established for sexual violence matters. FSA recommends that such Courts should be staffed by trauma-trained staff with specialist training related to the specific dynamics and impacts involved in sexual violence matters, as well as how not to re-traumatise survivors going through the Court process. We would be pleased to provide further information on the structure of these specialist courts in due course.