



5 March 2021

Michelle Vaughan
Commissioner of Victims Rights
Victims Services

By email only: VS@dcj.nsw.gov.au

Dear Commissioner,

Consultation on Victims Services Changes

We write to provide feedback on the changes to processes implemented by Victims Services on 1 July 2020. We understand that Victims Services is undertaking a review of the first six months of operation of the revised application requirements and the process for victims to choose their own counsellor.

We welcome the preliminary review, but any findings at this stage can only be preliminary as we do not have the longitudinal data to observe the real impacts of these changes.

We give Victims Services permission to publish our feedback and for our feedback to be provided to those undertaking the statutory review. For all case studies in this feedback, names and identifying information have been changed to protect confidentiality.

About Kingsford Legal Centre

Kingsford Legal Centre (KLC) provides free legal advice, casework and community legal education to our local community in south-east Sydney since 1981. We are part of the UNSW Sydney Law Faculty and provide clinical legal education to over 500 of its students each year.

We have extensive experience providing assistance and representation to people applying under the Victims Support Scheme. In 2020, we gave 37 victims compensation advices and provided intensive assistance with 8 victims compensation matters.

Key Issues for Comment

Applicants to provide government issued identification and whether this has created any barriers to accessing support

KLC is concerned that there are significant barriers for some victim-survivors providing government issued documentation, which may include those in custody and those who are homeless or transient with limited documentation available. Elderly people who are digitally illiterate may also have difficulty scanning or digitalising a copy of their identification card.

Rhonda's Story

Rhonda recently came to KLC for assistance to apply under the new application process for the Victims Support Scheme. Rhonda only recently escaped domestic violence and has a

long history of trauma. Rhonda was in the fortunate position where she was connected to a support service who were able to refer her to KLC for assistance. We are assisting Rhonda to collect the necessary government issued identification and bank details, as well as supporting evidence, but without our help we do not believe Rhonda would have followed through on this process on her own. She does not have access to printers or scanners and expressed to us that the process was overwhelming and that she could not imagine collecting this documentation on her own.

KLC is aware that not all applicants will have the benefit of a support system or legal assistance. There are also barriers to marginalised people accessing the internet or having access to scanners, which could particularly cause barriers for the elderly, homeless or those in prison. As is further demonstrated by other case studies below, we are concerned that requiring government issued identification at the time of application creates a further barrier to victims-survivors accessing Victims Support.

We recommend that providing government issued identification should be removed from the application form. Identification should be allowed to be provided after an application has been made.

Applicants to provide bank account details with applications for financial support and recognition payment and whether this has created any barriers to accessing support

KLC is concerned with the requirement that all applicants must provide bank details at the time of application for Victims Support (other than for the Immediate Needs Support Package – INSP) as it is a further barrier to accessing Victims Support. It may be difficult for applicants living in closed institutions such as prisons who may have limited access to their bank details.

We also believe that it could create a false expectation that all applications are successful, and for those which are not Victims Services will hold private and personal information that it does not need to have.

Given that there is also some time between the application being made and a final decision, during this time an applicant's bank details may change. It may cause further difficulties for victims-survivors who are escaping domestic violence and have a joint bank account with the perpetrator.

We believe that a more appropriate approach would be for Victims Services to request an applicant's bank details after a successful decision has been made.

We recommend the requirement to provide bank details be removed from the application form and that these details be requested after a successful decision has been made and payment is being arranged.

Evidence to be provided supporting a claim for a recognition payment within 12 months of submitting an application

Requiring an applicant to collect all evidence to support their claim prior to application submission or within 12 months will mean that some applicants, particularly the most vulnerable, will miss out on Victims Support due to failing to meet strict time limits. Many victim-survivors and particularly victims-survivors of domestic violence, sexual assault, child abuse and child sexual abuse need support to collect evidence.

Freida's Story

Freida came to KLC for help applying under the Victims Support Scheme prior to the process changes made in July 2020. Freida approached us in May 2019 following an assault in 2017. We submitted the application quickly due to time limit constraints, but then spent significant time and energy chasing up multiple specialists she had visited. As a result of facial injuries, she had attended multiple dentists, psychologists and doctors. We continued to assist Freida during COVID-19. Due to work from home arrangements, stay at home orders and the client's other medical issues she did not feel safe accessing the community. It would have been incredibly difficult for her to source the evidence she needed independently.

Armen's Story

Armen is a victim-survivor of extremely violent crimes, which caused Armen severe physical injuries and post-traumatic stress disorder. He was unable to work for a period of time due to the immediate impact of the violent crimes and has struggled to maintain consistent employment. He also needed to take time off work to participate in the criminal trial, which did not happen until over a year after the violence occurred. Armen wanted to make a Victims Support application and asked us for help with the process. He was not referred to us until after the criminal trial was over, and this was almost two years after the violence happened. We explained that under the new rules he needed to provide evidence of his lost income at the time of the application if he wanted to claim for economic loss. This was difficult for Armen to collect given the trauma he was still experiencing, the limited time he had to collect the evidence and the fact that he was an independent contractor and could not just ask an employer for payslips.

Bella's Story

Bella, a young Aboriginal woman, submitted an application to Victims Services on her own in 2020, following a sexual assault in early 2019. She came to our centre for assistance to collate her evidence and for help communicating with Victims Services. Since assisting Bella, KLC has needed to contact a variety of different health services including a psychologist. Getting these reports have not been a simple process. The psychologist advised that their organisation had introduced new practices for report writing associated with changed with Victims Services and that also as an organisation they do not provide a Certificate of Injury. We have been assisting Bella for over 7 months and have still been unable to collect all the evidence we need. It is simply not feasible to expect vulnerable clients like Bella to collect these documents on their own or in tight timeframes.

As the above case studies demonstrate, there can already be significant barriers to victims-survivors accessing Victims Support. Requiring applicants to provide all information and documentation up front, or within 12 months, causes further significant and unnecessary stress. This is of particular concern given that the Victims Support scheme is intended to operate without the need for legal assistance.

We recommend that Victims Services assist applicants to collect their evidence, including medical reports and accessing police records. We acknowledge that the decision around access to COPS records may be outside of Victims Services control, but we support it advocating with NSW Police on this issue.

The process for victims to choose their own counsellor from a listing on the Victims Services website

Changing the process of allocation so that victim-survivors must choose their own counsellors may cause delays or act as a deterrent in them accessing counselling services. We note that there is often complexity in victims-survivors' lives and it is important to ensure they have easy and accessible access to counselling. This change in process could have an even greater impact on regional, rural and remote communities where there may be fewer counsellors.

The process of choosing a counsellor via the Victims Services website may be difficult for those who are elderly, digitally illiterate or who do not have ready access to the internet. It may also be overwhelming if there are too many options to choose from.

We recommend that Victims Services provide applicants with the details of one to three counsellors with appropriate experience for their needs to choose from.

The process for reimbursement of expenses associated with accessing contemporaneous medical evidence following a successful determination

KLC is concerned about the burden now placed on victim-survivors to not only collect their own medical evidence, but to pay for the cost of such evidence up front. We believe this will be a further barrier to accessing Victims Support. Many applicants are low income or

receiving Centrelink benefits due to unemployment caused by the trauma from the violence they have experienced.

Huda's Story

Huda is a victim-survivor of serious and ongoing domestic violence. She receives Centrelink as she is unable to work due to the trauma of her experience and lives week to week. Huda came to us for help to make applications for victims support. She needed medical evidence from a number of different services. For one set of hospital records, she had to pay disbursement costs of \$120.00. We are assisting her to submit claims for other incidents which will result in further costs that Huda must pay up front. Huda also had to apply for her own COPS report which was another additional cost. To further complicate things, due to Covid-19 we were unable to meet with Huda face to face meaning there were delays in submitting her applications as she did not have access to a printer or scanner and could not provide us with copies of her identification documents. The time consuming nature of having to apply for records and pay for them up front has been a great source of stress for Huda, and our service was only just able to make the deadline for submission. Without the help of our service Huda would not have been able to do this on her own.

We believe that requiring victims-survivors, like Huda, to pay for the expense of collecting their evidence up front and with a delay for reimbursement will cause many applicants to not complete the application process, leaving them without the financial support they are entitled to and need.

We recommend that Victims Services should assist applicants to gather their medical evidence, and to cover the costs of such collection. If Victims Services will still require applicants to gather their own evidence, then we respectfully submit that disbursements should be paid by Victims Services directly to the provider or directly to the applicant as the costs arise.

Timeframes for determination and payment of an application

We are aware that the decision making process seems to be occurring more quickly. There have been concerns raised by other community legal centres that this has resulted in a number of internal reviews in circumstances where it should not have been required due to evidence not being closely examined by decision makers in the first instance, or where decisions have been made before evidence could be provided.

If an incorrect decision is made, KLC is concerned that applicants who do not have legal assistance may be unable to lodge appeals on their own or may not fully understand it is an option if they receive a negative decision in the first instance.

Renee's Story

Renee came to KLC for help after she had escaped a long and traumatising domestic violence relationship. Renee came to us about other issues but had made a Victims Support application on her own without any legal advice, and recently received a decision that she was eligible for a \$1500 recognition payment. We looked at Renee's evidence and the decision and helped her to appeal it on the basis that we thought she should be eligible for a \$5,000 recognition payment as the violence amounted to grievous bodily harm. We made submissions for Renee, which she would not have been able to do on her own. The appeal was successful and Renee received a \$5,000 recognition payment.

As Renee's story demonstrates, mistakes in an initial decision can cause unnecessary stress and work for applicants.

No access to vetted COPS reports

We understand that NSW Police are no longer able to provide vetted Computerised Operational Policing Service (COPS) reports to applicants or legal representatives and that they must be applied for directly. Our position is that NSW Police should provide vetted COPS reports to applicants in a timely manner and free of charge. This should also be extended to applicants' advocates or legal representatives with the authority of the applicant.

As Huda's story above demonstrates, requiring a victim-survivor to make a number of applications for various records and at their cost causes stress and is an unnecessary burden during an already upsetting and traumatic time. It can also cause delays, as in our recent experience it has taken a number of months to receive COPS reports and has involved numerous correspondence around the scope of the request.

It is important that vetted COPS reports are easily accessible to applicants and/or their authorised legal representative as they could be relevant to reasons for not approving or reducing financial support under section 44 of the *Victims Rights and Support Act 2013* (NSW).

We recommend that COPS reports be made easily accessible and free of charge to victims-survivors or their authorised legal representative. We support Victims Services in advocating with NSW Police around this issue.

Kingsford Legal Centre is concerned that ultimately these changes are creating further barriers to victims-survivors accessing Victims Support, as can be detailed by our client case studies provided above.

We respectfully ask that you pause the changes that have been effected and undertake a proper consultation on these processes where the outcome is not predetermined. It may be appropriate for these changes to be further considered in the upcoming statutory review.

If you have any questions, please contact me at e.golledge@unsw.edu.au.

Yours Faithfully
KINGSFORD LEGAL CENTRE



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