

SUBMISSION TO THE STATUTORY REVIEW OF THE VICTIMS RIGHTS AND SUPPORT ACT 2013 ON BEHALF OF A GROUP OF VICTIMS SERVICES APPROVED COUNSELLORS.

1. Relationship between Victims Services (VS) and Approved Counsellors.

Current levels of communication between VS and Approved Counsellors is highly inadequate and lacks transparency. This situation has deteriorated markedly in recent years. At present there is virtually no communication between the Commissioner of Victims Rights and the pool of VS Approved Counsellors. This has contributed to a significant reduction in the trauma informed team approach ensuring Approved Counsellors and VS work together to safeguard the rights and ensure access to VS services for victims/survivors.

The former close relationship between VS and Approved Counsellors provided enormous opportunities for VS to consult with this skilled and experienced group. In the past VS provided forums across the state for Approved Counsellors, other service providers and clients. These meetings included training opportunities. VS also facilitated an annual one-day conference for Approved Counsellors and provided regular emails to keep them informed about VS services. As VS no longer engages in these activities (accepting that COVID restrictions caused a temporary suspension) the relationship with Approved Counsellors has seriously deteriorated and Approved Counsellors no longer feel that they work *with* VS but rather *for* VS. This relationship needs to change as approved counsellors are both service providers to VS clients and stakeholders in the delivery of VS services. As such they are crucial to the delivery of a significant part of VS's services to their clients.

Recommendation 1. It is recommended that VS reinstate joint activities that provide opportunities for VS and Approved Counsellors to engage with each other in a meaningful, trauma informed and productive way. These would include regular workshops, consultations and an annual conference. It is suggested a newsletter would also facilitate communications.

2. Victims Advisory Board.

The Victims Advisory Board membership includes a range of stakeholders, with a mandate to advise the Minister on policies and to “promote legislative, administrative and other reforms to meet the needs of victims”.

In spite of the close and ongoing professional relationship between VS clients and Approved Counsellors, there is no VS Approved Counsellor representation on the Victims Advisory Board. This is a significant omission in the make-up of the Board.

Approved Counsellor representation on the Advisory Board would provide an excellent opportunity for meaningful and open dialogue between VS and service providers who are the main connection between VS and their clients. Input from the group of Approved Counsellors at Advisory Board level would provide invaluable input for decision making and policy development. Advisory Board membership

would also facilitate further opportunities for feedback to VS from the client group whose needs are well known to Approved Counsellors.

Recommendation 2a. It is recommended that the Victims Rights and Support Act (2013) be revised to include representation of the VS Approved Counsellors on the Advisory Board. This would provide a conduit for information exchange and consultation between Approved Counsellors and VS. As the majority of Approved Counsellors are either Psychologists or Social Workers, representation of the Approved Counsellors on the Board should include a member of each professional group. Interested Approved Counsellors should be invited to express interest. The selection process of the Approved Counsellors should be determined by VS and could involve input from the Australian Psychological Society (APS) and Australian Association of Social Workers (AASW).

Recommendation 2b. The names and contact details of the Approved Counsellors Representatives on the Advisory Board should be made available to all Approved Counsellors. Their role on the Board and the relationship between the Approved Counsellors and their Board representative should be formally communicated to all Approved Counsellors who should be encouraged to use their representatives as a means of communicating with the VS Advisory Board and to provide input to VS policy development.

3. Remuneration of Approved Counsellors.

Remuneration rates for Approved Counsellors for services including counselling sessions have not changed since 2014. It is quite unacceptable that these rates have not changed in eight years. This in spite of cost of living increases, increases in rentals for professional rooms, the costs of running small businesses and increases in recommended fee structures of the professional groups that represent Approved Counsellors. The remuneration rates within other comparable organisations have increased during this eight year period. This includes, for example, the Victims of Crime Assistance Tribunal (VOCAT) which provides access to corresponding services in Victoria, and in NSW the NDIS and Primary Health Networks which also provide psychological support to consumers. In particular the rate paid to Tier 1 VS Counsellors has fallen well below an acceptable level.

As a result of the inadequate VS rates of remuneration, increasing numbers of experienced counsellors are deciding to provide less access to VS clients as it has become less financially viable to do so. This means VS clients are finding it more difficult to access VS counselling which is exacerbated by the currently well documented difficulties facing people requiring access to mental health services in NSW. The impact is clear as VS Approved Counsellors are frequently receiving calls from distressed registered VS clients trying to find an Approved Counsellor who is available to see them within a timely period if at all.

Increasing remuneration rates for Approved Counsellors both acknowledges the work of this group and would ensure the maintenance of adequate numbers of Counsellors willing to engage with VS clients.

It is also noted that there is still an ongoing freeze on applications from Tier 1 counsellors to apply to become Tier 2 counsellors. Not enabling more experienced Tier 1 counsellors to become Tier 2 does not respect the level of experience these Approved Counsellors have reached and makes it increasingly likely that these counsellors will not take on VS clients because of the inadequate remuneration for Tier 1 counsellors. The effect will be a lessening of the overall level of experience within the pool of VS Approved Counsellors. A decision such as this is solely budgetary, does not prioritise the needs of the client group and does not acknowledge the efforts of Tier 1 counsellors who have improved their therapeutic skills through continuous professional development activities.

Recommendation 3a. It is recommended that VS urgently address the inadequate levels of professional fees paid to Approved Counsellors and ensure that they comparable to those of similar service providers. Fees paid to VS Approved Counsellors should be reviewed within a regular time frame.

Recommendation 3b. The current freeze on Tier 1 counsellors being able to apply to become Tier 2 counsellor should cease immediately in order to improve client access to more experienced counsellors and to acknowledge the increasing skills and professional development of Tier 1 counsellors.

4. Problems around the provision of Certificate of Injury (COI) Reports for Recognition Payments (RP).

The March 2021 Operations Guidelines for VS approved counsellors direct Approved Counsellors to use the template available on the VS website when completing COI Reports. This template is available for other external agents (such as GPs, psychiatrists or other health practitioners) to download and complete.

The template is a “one-size-fits-all” and often not fit for purpose. It is steeped in a medical deficit model that focuses on diagnosis and is certainly not trauma informed. It requires a provisional or an actual diagnosis to be made at the time of or subsequent to the act of violence. This raises a number of issues.

- Some Approved Counsellors are professionally not permitted to make psychiatric diagnoses. In most circumstances, for example in establishing eligibility for NDIS services and Centrelink Disability Support Payments, mental health diagnoses must be made either by a psychiatrist or by a clinical psychologist with accompanying confirmation from a GP.
- A person can be a victim of violence, experience repercussions from that experience and not satisfy the requirements for a psychiatric diagnosis.
- The person who was a victim of violence may not have sought help at the time and was not able to receive a diagnosis. This is true in the case of many victims of domestic and family violence and certainly historic child sexual assault survivors.
- Some victims of violence have been or are still under psychiatric care and have received a prior diagnosis unrelated to the act of violence. In this situation although a diagnosis may indicate a vulnerability it is often meaningless in the context of the effect on them of the act of violence.
- Requesting information about a diagnosis relating to the effects of the act of violence raises questions around whether a diagnosis implies an effect on the amount of recognition payment. The effect of an act of violence on a person’s life

is multi factorial and specific to that individual. However a psychiatric diagnosis is, in many cases, not relevant.

- Insistence that a psychiatric diagnosis is a pre-requisite seems to be a “tick in a box” and it is difficult to see how it is necessary for calculation of a recognition payment.

Often, the only COIs provided for VS assessment of RPs are those provided by an Approved Counsellor and this counsellor may have been seeing the victim for some time before the victim applies for a RP. Many clients are initially unaware that they are eligible for this payment and are often hesitant to apply, believing they don't have a right to, or deserve this recognition. There can therefore be a lot of session material to review in drafting COIs and in representing this material accurately in the template. Approved counsellors are placed in the invidious position of wanting to provide the best COI report possible for their clients' claims but receiving minimal remuneration for their time and effort to complete the task. Payment to approved counsellors should reflect the expertise required and time taken to draft and submit these reports.

Recommendation 4a. The template for submitting a COI Report for RPs needs to be revised to better reflect a trauma informed model. Reports should only include a psychiatric diagnosis when appropriate, is known and is able to be made by the Approved Counsellor submitting the report.

Recommendation 4b. Remuneration for COIs needs to be reviewed to better reflect the amount of work involved in completing the report. Amounts currently reflect the expectation that a report can be developed, written and submitted in half an hour which is patently an inadequate time frame.

5. Rejection of further counselling sessions.

From July 2021, many requests from approved counsellors for additional hours of counselling have been rejected unless there were “exceptional circumstances”, or the client has reported further acts of domestic or family violence. The VS Approved Counsellor Operating Guidelines (March 2021) state that VS decide unilaterally what are “exceptional circumstances”. VS provides no information in the guidelines regarding what “exceptional circumstances” might be. This is in spite of the fact that it is the Approved Counsellor's role to apply for these extra hours because of “exceptional circumstances”. Lacking this information limits the Approved Counsellor's ability to advocate for their client. It is noted that these changes were implemented by VS without any explanation or consultation with Approved Counsellors.

It is accepted that VS should have in mind appropriate guidelines in place around expenditure of public money and as a result be able to make decisions about access to counselling sessions. There is however no acknowledgement that a decision around further counselling sessions is also clinical in nature and denying these additional hours is likely to affect the recovery and wellbeing of VS clients.

As a result of these rules Approved Counsellors must apply for more counselling hours on behalf of their clients with no information around what the application

should include with a high likelihood that further counselling hours will not be approved. Clients who are affected have included:

- Adult survivors of domestic or family violence or sexual assault, after their initial 22 hours of counselling have been used.
- Adult survivors of domestic/family violence which occurred in their childhood where they were not the targets of physical abuse in their family but were witness to and affected by ongoing domestic and family violence, including on occasion trying to protect an adult victim. The trauma informed model would acknowledge that those children/young people living in a family where there is violence occurring, are highly likely to experience emotional abuse themselves which is often severe and ongoing and highly likely to have effects later in life. It is hard to understand a policy where a person who was hit by a parent has access to more counselling sessions than a person who saw others hit and lived in similar terror to those directly assaulted. Clearly this is an example of the current policy not being trauma informed.
- Adult survivors of domestic/family violence where family court matters are still ongoing. These clients have been refused further counselling hours on the basis that family court matters are not considered to be directly related to the reported physical or psychological injury even though these injuries occurred within the relationship breakdown, currently before the court. This decision does not acknowledge the trauma of being involved in often difficult Family Court matters where it is not unusual for victims of domestic and family violence to be submitted to an adversarial court experience, ongoing manipulation, threats of violence or financial victimisation from an ex-partner, including around the welfare or emotional/physical safety of their children. Denying access to counselling during the traumatic and sometimes dangerous experience of Family Law Court proceedings is inconsistent with the provision of services within a trauma informed framework. It also does not reflect current knowledge or understanding of coercive control that occurs outside the definition of physical violence which often does not lead to police action or application of an Apprehended Violence Order.

The safety of victims and their children unfortunately is not assured simply because Family Court proceedings are current. Victims frequently require quite specific and ongoing support from an experienced and informed Approved Counsellor during this process., Such support can be crucial to the safety of the victim and their children.

Recommendation 5a. VS should re-visit the decision to automatically restrict the number of counselling hours and ensure that decisions around provision of further counselling hours are trauma informed. Although acknowledging the financial responsibility of VS, clinical decisions around the needs of the client should be foremost in deciding whether a client requires further counselling. If the definition of “exceptional circumstances” is to continue to be the deciding factor then this must be clarified and explained to Approved Counsellors via a transparent trauma informed policy that focusses on the needs of the client.

Recommendation 5b. Current clients who are victims of domestic/family violence should be able to apply for and receive access to additional counselling hours when they request/require ongoing support during Family Law Court matters affecting them.

The following VS Approved Counsellors appreciate the opportunity to provide input to the 2022 review the Victims Rights and Support Act (2013). We hope that our submission is of use to the officers in their considerations in carrying out the review.

Mark Griffiths, Psychologist, Tier 2 Counsellor [REDACTED]
[REDACTED]

Tony Phiskie, Accredited Mental Health Social Worker, Tier 2 [REDACTED]
[REDACTED]

Rachel Moss, Social Worker, Tier 1 Counsellor [REDACTED]
[REDACTED]

Priscilla McCorriston, Accredited Mental Health Social Worker, Tier 2 [REDACTED]
[REDACTED]

Helen Basili, Accredited Mental Health Social Worker, Tier 1 [REDACTED]
[REDACTED]

Lorraine Wright, Clinical Social Worker, Tier 2 [REDACTED]
[REDACTED]

Judith Tynan, Social Worker, Tier 1 [REDACTED]
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Nicholas Doumani, Psychologist, Tier 1 [REDACTED]
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Karen Doherty, Accredited Mental Health Social Worker, Tier 1 [REDACTED]
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Jenna McKenzie, Psychologist, Tier 1 [REDACTED]
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