



73 Pitt Street  
Redfern NSW 2016

Phone (02) 9698 7277

29 July 2016

Director, Civil Law  
NSW Department of Justice  
GPO Box 31  
Sydney NSW 2001

By email: [policy@justice.nsw.gov.au](mailto:policy@justice.nsw.gov.au)

**Submission to the Legislative Review of the *Victims Rights and Support Act 2013***

Please find attached our Submission to the Legislative Review of the *Victims Rights and Support Act 2013*.

Yours faithfully  
Redfern Legal Centre

Jacqui Swinburne  
Acting Chief Executive Officer

**Redfern Legal Centre and Sydney Women's Domestic Violence Court Advocacy Service  
Submission to the Legislative Review of the *Victims Rights and Support Act 2013***

**Introduction: Redfern Legal Centre and Sydney WDVCS**

Redfern Legal Centre (RLC) is an independent, non-profit, community-based legal organisation with a particular focus on human rights and social justice. Our specialist areas of work are domestic violence, tenancy, credit and debt, employment, discrimination and complaints about police and other government agencies. By working collaboratively with key partners, RLC specialist lawyers and advocates provide free advice, conduct case work, deliver community legal education and write publications and submissions. RLC works towards reforming our legal system for the benefit of the community.

RLC manages the Sydney Women's Domestic Violence Court Advocacy Service (Sydney WDVCS). The aim of the Sydney WDVCS is to assist women and children experiencing domestic violence to obtain protection orders and assistance with their other legal and social needs, including referrals to family law and financial advice, referrals to housing and counselling, and other support. We have a particular interest in ensuring that vulnerable women such as Aboriginal and Torres Strait Islander women, women of multicultural backgrounds, women with disability, women in same-sex relationships, transgender women, and women in regional and remote areas have equal and appropriate access to legal and other domestic violence support and assistance.

**Our work in the area of Domestic Violence**

RLC and Sydney WDVCS are well placed to make this submission to the Legislative Review of the *Victims Rights and Support Act 2013* as a result of their broad experience with clients experiencing domestic and family violence. In the past twelve months, Sydney WDVCS has provided domestic violence related advice and assistance to approximately 2,500 women. Most of these women were provided with information about the Victims Support Scheme and approximately 583 of these women were provided with a direct referral to Victims Services.

The Sydney WDVCS is funded by Legal Aid through the Women's Domestic Violence Court Advocacy Program (WDVCSAP), which was established in 1996 and operates at 108 New South Wales Local Courts. The Sydney WDVCS operates at the Downing Centre (central Sydney), Newtown and Waverley local courts.

RLC and Sydney WDVCS welcome the opportunity to comment on what is working well, and to make recommendations for improvements to assist victims of domestic violence under the *Victims Rights and Support Act 2013*.

## **Our recommendations for legislative changes to assist victims of domestic violence**

### **1. A change to the need for documentary evidence from police or Government agencies for claims for immediate needs, economic loss and recognition payments**

Currently an application for financial assistance for immediate needs under the Act requires a victim to submit a medical or police report to 'support on the balance of probability, the applicant's claim to be a victim of an act of violence'.<sup>1</sup> An application for economic loss or a recognition payment under the Act requires a victim to submit 'a police report or report of a Government agency and a medical, dental or counseling report verifying that the applicant or child who is the primary victim concerned has actually been injured as a result of the act of violence'.<sup>2</sup>

Some victims of domestic violence – particularly Aboriginal and Torres Strait Islander women - are reluctant to report the violence to police or a Government agency for fear of further violence from the perpetrator, the perpetrator's family or from the community when police charge the perpetrator and/or apply for an Apprehended Domestic Violence Order. The experience of Sydney WDVCAS is that these victims are more likely to approach a non-government agency for specialist support and assistance.

#### Case Study

Alison\* has been referred by police to Sydney WDVCAS on eight occasions over the past twelve months after being called to disturbances at her home. The referrals to Sydney WDVCAS were made through the Central Referral Point, and the Domestic Violence Safety Assessment Tool (DVSAT) indicated on every occasion that Alison was 'not afraid'. Alison always declined to give a statement to police.

On every occasion, except for the most recent, when the Sydney WDVCAS' Aboriginal Specialist Worker contacted Alison in response to the referral, Alison had reported that she was fine and said that neighbors called police after she and her partner had a verbal argument. However, on the most recent occasion, Alison finally agreed to meet our Aboriginal Specialist Worker face-to-face and it was in this meeting that Alison confided the actual extent of the abuse against her and her plans to leave her partner and relocate to a safer place 'as soon as she could save some money to get away'. She did not want to speak to police about obtaining an ADVO for fear of making the situation with her partner worse, and for fear of condemnation from his family.

\*Not her real name

---

<sup>1</sup> *Victims Rights and Support Act 2013*, Section 39(2)(a)

<sup>2</sup> *Victims Rights and Support Act 2013*, Section 39(2)(b)

We recommend that documentation from certain non-government organisations should be enough to satisfy the requirement for documentary evidence to support, on the balance of probability, an applicant's claim for immediate needs and economic loss or a recognition payment under the Act.

## **2. A change to the pursuit of restitution where victims say they are fearful of retaliation**

Under the current legislation, if a person is convicted of the offence that led to a victim's injuries, restitution action can be taken by Victims Services to recover from the offender all or some of any payment made to the victim.<sup>3</sup> From our experience, some victims do not want to pursue recognition payments once they learn that the offender may be pursued for restitution. Victims are often fearful of retaliation and fear that further violence will be triggered by the pursuit of a restitution order.

### Case study

Marilyn\* was married to Lloyd\* for thirty years. In January 2016, Lloyd was found guilty of assaulting Marilyn and injuring her eye socket and breaking her tooth. Sydney WDVCS offered to provide a warm referral to Victims Services for Marilyn, but when she learnt that Lloyd would probably be pursued to recover any payments made to her pursuant to the *Victims Rights and Support Act* she decided it was too dangerous for her to make a recognition claim. Marilyn and Lloyd have four adult children and although Marilyn had left the family home and was living safely elsewhere, she said was concerned that Lloyd would use any future family contact to denounce her report to police and to continue to intimidate her. She said she felt this situation would be made even worse if he was to be pursued for restitution.

\* Not their real names

We recommend that victims who can demonstrate legitimate reasons for their safety concerns be granted an exemption for the pursuit of the offender for restitution.

### **What we say is working well for victims of domestic violence under the *Victims Rights and Support Act 2013***

We feel that the *Victims Rights and Support Act 2013* is working very well for the majority of our clients. In the past twelve months, Sydney WDVCS has made approximately 583 direct referrals to Victims Services, and provided other clients with information and contact details about the Victims Support Scheme. On behalf of our clients we have completed, or we have assisted our clients to complete, the on-line application form for counseling and/or financial assistance and/or recognition payments,

---

<sup>3</sup> *Victims Rights and Support Act 2013*, Section 57

and for others we have introduced them directly to the Victims Services customer services officer at the Downing Centre Court on Wednesdays (AVO list day).

We feel that, compared to the assistance provided to victims of domestic violence under the previous legislation, far more of our clients have been able to access support under the terms of the *Victims Rights and Support Act*. Feedback from our clients indicates they are being assisted in a timely and appropriate way, and in a way that helps with their recovery and their on-going safety. Usually our clients are seeking and being approved for counseling to recover from domestic violence. Some clients are also in need of financial assistance to either upgrade their safety at home or to move to somewhere safe. We also have clients who have made a successful application for financial assistance for economic loss as a result of the violence, and these clients tell us that the financial assistance they receive is invaluable.

#### Case study

In early 2016, Jenny\* made an application for counseling, financial support and a recognition payment after suffering long-term, severe domestic violence from her husband of twenty-three years. Jenny had been isolated from support and had remained with her violent husband because she had nowhere safe to go. After a report to police by neighbours, Jenny's husband was charged with (and found guilty of) assaulting her and police applied for an AVO to protect her. We assisted Jenny with an application to Victims Services for counseling, financial assistance for immediate needs and a recognition payment. Victims Services found that Jenny was a victim and had sustained injury as a result of the domestic violence and she was awarded financial assistance for her immediate needs, financial assistance for economic loss and a recognition payment. Jenny was also approved for counseling.

Jenny recently contacted our WDVCAS to thank us for the support she had received and to say that the financial assistance, together with the counseling she was receiving, has allowed her 'to move on in a way [she] could not have previously envisaged'.

\*Not her real name

### Conclusion

We recommend two changes to the *Victims Rights and Support Act 2013* that we believe would benefit victims of domestic violence: a change to the need for documentary evidence from police or Government agencies for claims for immediate needs, economic loss and recognition payments and a change to the pursuit of restitution where victims say they are fearful of retaliation should restitution be pursued.

We recommend that documentation from certain non-government organisations should be enough to satisfy the requirement for documentary evidence to support, on the balance of probability, an applicant's claim for immediate needs and economic loss or a recognition payment under the Act, and we recommend that victims who can demonstrate legitimate reasons for their safety concerns be granted an exemption for the pursuit of the offender for restitution.

Otherwise, RLC and Sydney WDVCS submit that the terms and the policy objectives of the *Victims Rights and Support Act 2013* remain valid for, and are meeting the needs of, their clients who are victims of domestic violence.

**Susan Smith**

Solicitor/Coordinator

Sydney Women's Domestic Violence Court Advocacy Service

Redfern Legal Centre

73 Pitt Street

Redfern NSW 2016

[susan@rlc.org.au](mailto:susan@rlc.org.au)

Phone: 9287 7505