

STATUTORY REVIEW OF THE *VICTIMS RIGHTS AND SUPPORT ACT 2013*

Survivors & Mates Support Network (SAMSN)

Background

SAMSN is a national specialist service working with adult male survivors of child sexual abuse. SAMSN is a not-for-profit charity co-founded by male survivors for male survivors and their families. SAMSN offers a range of free services including professionally facilitated Eight-week Support Groups (83 of these groups have been held to date), Planned Support providing individual professional and peer support, Monthly Drop-in Meetings, support for those thinking of and engaging with the National Redress Scheme or with the NSW Victims Support Scheme and workshops for service providers and supporters and survivors. SAMSN is celebrating its tenth anniversary this year.

SAMSN receives Commonwealth and State funding to provide services and programs in New South Wales, South Australia and Tasmania. SAMSN also relies on private donations to do this work.

Eight-week Support Groups

Over the past ten years, SAMSN has developed as one of its signature programs, the professionally facilitated Eight-week Support Groups. In March 2020 NSW Victims Services, the primary funder of this program since 2014, advised they would be conducting a review into all group work funded by them. Shortly after making this announcement funding for the groups ceased. Despite many requests by SAMSN as to the status of this review, SAMSN is still waiting to hear of the outcome.

In the meantime, SAMSN has funded the Eight-week Support Group program from its own cash reserves. However, two years on, this is no longer possible. The difficult decision has been made to no longer deliver this program. This has had a negative impact on many male survivors in NSW, especially on the more than 130 men on the waitlist for the groups. Given that these men were keen to benefit from the peer and professional support offered by the groups, in a commitment to the well-being of these men, SAMSN staff are regularly checking in on each of these men and assist them to access individual approved counselling where available or desired. Also as a consequence, some months ago SAMSN had to cease taking registrations of interest from men wanting to attend the groups.

Program initiatives

During the COVID-19 lockdown SAMSN quickly moved 'online' enabling it to continue to offer its programs and services.

During this time SAMSN has been able to develop and resource two initiatives –

1. an eight-episode podcast called STRONGER covering issues of identity, disclosure, supporters, masculinity, the justice system, the Royal Commission, the National Redress Scheme and 'ingenious' survival; and
2. set up the peer support line, "Talk with a mate who can relate"



SAMSN's response to the statutory review

SAMSN is grateful for the opportunity to respond to the NSW Government's review of the *Victims Rights and Support Act 2013* (the Act). SAMSN has chosen to comment only on those areas where it has had experience working with survivors and their families and supporters or direct experience working with the infrastructure of the Victims Support Scheme (VSS).

We note the purpose of the statutory review is to determine -

- Whether the policy objectives of the Act remain valid; and
- Whether the terms of the Act remain appropriate for securing those objectives.

The policy objectives of the Act are noted as:

- Recognising and promoting the rights of victims of crime;
- Establishing the role of the Commissioner of Victims Rights and the Victims Support Fund;
- Establishing a scheme for the provision of support for victims of acts of violence;
- Enabling financial support paid and recognition payments made under the Victims Support Scheme to be recovered from persons found guilty of the crimes giving rise to the payments;
- Giving effect to an alternative scheme under which a court may order the person it finds guilty of a crime to pay compensation to any victim of the crime;
- Establishing the Victims Advisory Board including its membership and statutory functions; and
- Prescribing other miscellaneous provisions related to the operation of the Act.

SAMSN has chosen to make submissions on whether four of the policy objectives of the Act remain valid together with submissions about legislative reform. The policy objectives SAMSN will be addressing in this submission are:

- Recognising and promoting the rights of victims of crime
- Establishing the role of the Commissioner of Victims Rights and the Victims Support Fund
- Establishing a scheme for the provision of support for victims of acts of violence
- Establishing the Victims Advisory Board including its membership and statutory functions

Recognising and promoting the rights of victims of crime

Part 2 of the Act recognises and promotes the rights of victims of crime. To achieve this the Act establishes the Charter of Victims Rights (the Charter). The Charter details 18 rights.

SAMSN's response to the Charter is that overall, the rights of victims of crime are clearly articulated, ensuring the victim can expect to be treated with respect.

However, SAMSN has comments in relation to two of the rights.



In reference to right Number 4, “Information about investigation of the crime” we are concerned that the onus is put on the victim to ask for information “A victim will, on request, be informed of the progress of the investigation...” It is our submission that this right could be reviewed, requiring Police to be more pro-active in the way they provide information to victims and as to the way information is provided to victims by police, giving the victim choice and being trauma informed.

The way the right is currently framed, it is a problematic for victims who are less likely to contact Police (e.g., victims of crime within institutional settings and/or those who’ve historically had negative experiences with the police) leaving those victims at a disadvantage.

In reference to right Number 18, “Information about complaint procedure where Charter is breached” our submission is that it would be helpful to include in this right detail of possible remedies or outcomes to help set expectations about this process.

Training for services around the Charter would be very helpful. While delivering this training has been talked about for some time nothing has as yet eventuated.

Establishing the role of the Commissioner of Victims Rights

SAMSN has chosen to make submissions on the role of the Commissioner of Victims Rights and not to comment on the Victims Support Fund.

Division 1 of Part 3 of the Act sets out the provisions establishing the role of Commissioner of Victims Rights (the Commissioner).

Currently there is one person who is both Commissioner of Victims Rights and Executive Director Victims Services. SAMSN has supported submissions in the past, for the position of Commissioner to be independent given that there is a potential conflict of interest with the one person having both roles. SAMSN continues to support this submission addressing as it does the perception of a conflict of interest and increasing the transparency and accountability of the Victims Support Scheme.

Establishing a scheme for the provision of support for victims of acts of violence

Part 4 of the Act sets out the provisions establishing the VSS. SAMSN acknowledges the importance of the VSS in providing support to victims of crime. SAMSN also acknowledges that since 2014 there has been a significant growth in the demand for support provided through the VSS.

As noted in the legislation, under the VSS there are four pillars of support available. These are

- Counselling;
- Financial assistance for immediate financial needs;
- Financial assistance for economic loss; and
- Recognition payments.

Counselling

SAMSN acknowledges that many clients of SAMSN have been able to have access to ongoing counselling.



However, SAMSUN would like to raise the following two areas of concern:

- The definition of ‘approved counselling’
- Difficulties accessing ‘ongoing counselling’

SAMSUN notes that there is no definition in the Act of “approved counselling.” There has been an assumption that approved counselling refers to one-on-one counselling. As noted above, Victims Services has withdrawn funding for groupwork in NSW. The withdrawal of the funding was on the basis that funding would be available for individual counselling. It is our submission that this approach fails to recognize the importance of groupwork in facilitating not only support from peers but also structured programs to enable healing and recovery. SAMSUN submits that professionally facilitated peer support groups and other groupwork models should be included in the term “approved counselling”. This is supported by a strong evidence base for the efficacy of group programs, particularly for adults who were sexually assaulted as children (ECAV, 2019)¹. Not only does this provide ongoing valuable support to victims but it is also a cost-effective way for Victims Services to support victims.

By providing victims the right to choose which format (individual or group) of counselling is best for them, it creates a trauma-informed system, consistent with a phase-based approach to addressing complex trauma that involves both group and individual counselling (de Boer et al, 2021)². Choice and flexibility for victims to determine the most appropriate option for their current needs can lead to better outcomes and reduce the time required to engage with professional services funded by the scheme. SAMSUN has repeatedly received feedback regarding the positive effects of the groups in addressing common impacts of child sexual assault such as feelings of guilt and shame, that would not have been achievable through individual counselling alone.

Many SAMSUN clients have described their attendance at the Eight-week Support Groups as having ‘turbo-charged’ their recovery and as an entirely different experience from one-on-one counselling.

Secondly, SAMSUN has found over the past 18 months there has been an issue for some of our clients being able to access ‘ongoing counselling’.

Section 7 of the Regulations provides that *“the Commissioner may authorize payment for approved counselling services on an ongoing basis for*

- a. A person under the age of 18 years who is a victim of sexual assault or physical abuse, or*
- b. A person who while under the age of 18 years, was a victim of sexual assault or physical abuse.”*

SAMSUN submits that accountability and transparency should be built into this section, enabling victims to know when and on what basis the discretion not to authorise the payment will be exercised. This would remove the risk of counselling being withdrawn without any reason being provided.

¹ NSW Health Education Centre Against Violence: ECAV Best Practice Guidelines for Group Work with Adults Sexually Assaulted as Children

² Kathleen de Boer, Inge Ghatt, Jessica L. Mackelprang, Danielle Williamson, David Eckel & Maja Nedeljkovic (2021): Phase-based approaches for treating complex trauma: a critical evaluation and case for implementation in the Australian context, *Australian Psychologist*, 56:6, 437-445, DOI: 10.1080/00050067.2021.1968274

SAMSN is aware of instances where counselling approval was not renewed (where there was eligibility for “ongoing” counselling) and of clients wanting to access Victims Services counselling having to apply for counselling using other assaults. This creates undue distress for victims and may interrupt their counselling progress.

There have been other instances recounted to SAMSN where counsellors have not requested ongoing counselling for clients because it was not worth their while to do so. The counsellors have agreed to continue seeing the clients but on a private basis under Medicare. We know of one client who has made a complaint to Victims Services about messaging received from his counsellor that doing counselling work for Victims Services was not worth it.

Finally, SAMSN notes there is overall a difficulty in accessing Victims Services counsellors. Many have closed their books or have significant wait times. While SAMSN acknowledges the increasing cost of the VSS, it also acknowledges that to maintain or even increase the number of counsellors working within VSS, it will be necessary for Victims Services to review the current hourly rates being paid to counsellors. It is recognised that counsellors need to provide services that remain economically viable for them. Without any action, counsellors will continue to limit the number of people they see under the VSS. This will negatively impact victims in particular victims in regional and remote areas of NSW.

Financial Assistance

To access financial assistance or the recognition payment under the Scheme, the victim must prove they were the victim of an “act of violence” and that they were injured as a result. SAMSN supports the position that having to prove separately an injury is not trauma informed and is in fact compounding the trauma by increase

- The number of times the victim needs to repeat what happened to them; and
- Delays in accessing financial assistance and payment.

The fact that a violent crime was committed should of itself be sufficient for a victim to receive recognition payment. This is even more so, for victims of child sexual abuse.

SAMSN supports the proposal that legislation be introduced to remove the requirement to separately prove injury in Victims Support applications.

Recognition Payments

In relation to the categories of Recognition payments, SAMSN supports the following: -

- Legislation being introduced to amend Category B of the Recognition Payments in include all incidents of child sexual abuse as resulting in serious bodily injury. The harm to children as a result of child sexual abuse is well known. Making this amendment would mean victims of child sexual abuse, would automatically be eligible for the higher category of recognition payment.
- Legislation be introduced to increase the amounts of the recognition payments. The current payments have not been increased since the legislation was introduced in 2013.



Establishing the Victims Advisory Board including its membership and statutory function

Part 8 of the Act establishes the Victims Advisory Board (the Board) and details the membership and procedure for the Board. The CEO of SAMSN is a member of the Board and regularly attends board meetings.

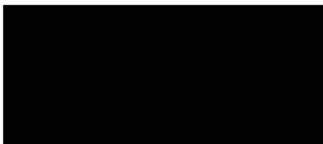
The legislation tasks the Board with: -

- advising the Minister on policies and administrative arrangements relating to support services and assisting victims;
- consulting victims, community groups and government agencies on issues and policies concerning victims; and
- promoting legislative, administrative or other reforms to meet the needs of victims.

For the Board to be able to fulfil these functions and to be accountable, it is vitally important that consultation between the Commissioner, service providers, community organisations and victims is meaningful and not to be perceived or experienced tokenistic. Stakeholders are key to the effectiveness of the VSS.

It is our submission that processes need to be put in place to ensure the Board works collaboratively with community organisations and victims and in particular with the established Victims of Crime Interagency to achieve meaningful consultation and dialogue. SAMSN submits for the Board to be truly effective it should be meeting at a minimum six times a year.

Finally, to achieve transparency of the consultative processes, it is submitted that minutes of the meetings of the Board and of the Victims of Crime Interagency need to be published on the Victims Services website.



MD/CEO

8 July 2022

