

INQUIRY INTO SUPPORT PROVIDED TO VICTIMS OF CRIME

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Committee Secretary
Legal Affairs and Safety Committee
Parliament House
George Street
BRISBANE QLD 4000

By email only: LASC@parliament.qld.gov.au

Dear Sir/Madam

Inquiry into Support for Victims of Crime

Thank you for the opportunity to provide this submission to the Legal Affairs and Safety Committee Inquiry into Support for Victims of Crime in Queensland (**the Inquiry**).

Background

LawRight is a not-for-profit, community-based legal organisation, which coordinates the provision of pro bono legal services to disadvantaged Queenslanders.

The Community & Health Justice Partnerships program (**CHJP**) was established in 2002 by LawRight to provide free legal assistance and representation to people experiencing or at risk of homelessness, refugees, and other vulnerabilities.

Since 1 July 2019, the CHJP provided legal advice or assistance to 251 Queenslanders who sought to apply for financial assistance under the *Victim of Crime Assistance Act 2009* (**the Act**).

Summary of LawRight's submissions

LawRight's submission is primarily in response to the following terms of reference of the Inquiry:

2. *The operation and effectiveness of the Victims of Crime Assistance Act 2009 (the Act) for victims of violence, including:*

...

- *mapping victims' experiences through the financial assistance application process to identify the ways to reduce the burden on applicants*

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....

- *revising the existing government initiatives in relation to the Act's operation and effectiveness.*

Drawing on the extensive casework assisting victims of crime, LawRight submits the following in relation to the experience of clients accessing financial assistance under the Act:

1. The current delay in assessing financial assistance applications by Victim Assist Queensland (**VAQ**) creates additional distress for victims of violent crimes, especially those experiencing financial hardship. It also prevents victims from timely access to recovery needs such as counselling, psychology and other medical expenses. We recommend that the Queensland Government provide additional resources to VAQ to enable the timely assessments of applications.
2. Services working with people who have experienced violence are sometimes unaware of the financial assistance available under the Act. This results in many victims of violent offences not being informed of the VAQ scheme, or only being made aware after a significant period of time. There should be further education and awareness-raising initiatives by VAQ delivered to services to assist victims of violent crime.

Regarding the Act's operation and effectiveness, we submit:

3. The current process of offender debt recovery under Part 16 of the Act, places victims of violent crimes at risk of further harm from perpetrators of violence. We recommend that the Act and VAQ Application Form be amended to ensure debts are only recovered from convicted offenders where the applicant has been informed on the risk of offender debt recovery.
4. VAQ is sometimes not utilising its power under the Act to request information from the QPS, Queensland Hospital and Health Services and other relevant health professionals. We recommend that VAQ use this power to reduce the burden on victims applying for Financial Assistance.

Submissions

1. Delay in assessing applications for financial assistance

LawRight has concerns about the length of time VAQ takes to assess applications for financial assistance and the impact that this has on victims of violent crime. The objectives of the scheme (specified in s3(2)(a) of the Act) includes to "help victims of acts of violence to recover from the acts by giving them financial assistance". LawRight submits that the delay in assessing applications is acting as a barrier to recovery by preventing victims from accessing necessary support and medical assistance. Clients experiencing disadvantage cannot afford to pay out-of-pocket expenses for critical healthcare, such as psychology, with the hope that VAQ will reimburse them when the application is assessed.

LawRight reviewed 38 VAQ applications that we submitted for clients opened in the 20-21 financial year. For the 32 applications where a decision has been made, the average processing time was 14.2 months, and the longest processing time was 1 year and 11 months. Of the 28 applications, there are 6 applications where a decision has not yet been made. The average wait time for these applications is 12.8 months.

The delay of assessing applications has a significant impact on vulnerable clients, as noted by Sally*, whose full statement is attached as Appendix A:

“We are constantly on high alert and fear for our safety. Unfortunately, financial support for domestic violence is extremely limited and the application process for Victims Assist has been difficult. My personal application has taken over 18 months for review, causing overwhelming stress as therapy sessions are costly. It is frustrating when more information is required, as it forces us to relive the events and start treatment all over again.

It is imperative that assistance and access to resources for individuals who have been impacted by domestic violence. Additionally, it is crucial to streamline the approval process for necessary documents to ensure that survivors can move forward with their lives. We must prioritize the needs of those affected by domestic violence and take action to support them.”

Another client, Miley*, has been waiting 20 months for her application to be processed. Miley has reflected that re-living the violence that she suffered was difficult, and that waiting for a decision has reduced the healing effect of the scheme as she is not able to move on.

A Safe Relationship Advocate from a Youth Service that works with young people who have experienced Domestic and Family Violence stated that *“long wait times make it difficult for young people to access the services they require when they need it the most (IE in the immediate period after the crime).”*

We recommend that further resourcing be given to VAQ to ensure that it can assess applications in a timely manner.

2. Lack of awareness of the VAQ scheme for frontline workers working with victims of violent crime

Clients have reflected to LawRight that, prior to a referral to LawRight, they had not been told about the VAQ scheme despite interacting with QPS and medical professionals in relation to the violence that they had experienced.

One of LawRight’s clients Grace, a 21-year-old woman, met with LawRight through a sexual assault support service after experiencing sexual violence. When asked if she would like to comment to this Inquiry, Grace said:

“My constructive criticism is that no one knows about this [Victim Assist]. I know plenty of other people who have been through similar things, and no one knows about this service. Even my psychologist who does a lot of work with trauma said that she didn’t know about [Victim Assist].” Grace, 21 years old.

LawRight recommends that more resources be put into education and awareness-raising initiatives for the community so that front line workers are able to refer victims of violent crime to VAQ for financial assistance.

3. Impact of the offender debt recovery scheme on survivors of violent crimes

Part 16 of the Act allows the State to “recover assistance granted for an act of violence from a person who is convicted or a relevant offence for the act”. Victims of violent crime, particularly domestic and family violence, are often fearful of the perpetrator and the fear of offender debt recovery can be a reason that a victim does not apply for financial assistance. LawRight has requested in individual matters that the Director of VAQ commit to not pursuing the perpetrator for offender debt recovery, however this decision is not binding on future Directors of VAQ.

Offender debt recovery is not mentioned on the application form, and it is a concern that vulnerable applicants may make an application without being aware of the potential safety risks. Without legal advice, many applicants would not be aware of the safety risk associated with applying to VAQ.

Bridie’s story represents a number of our clients and is an example of how a victim’s safety could be compromised by the State pursuing the perpetrator to repay financial assistance.

Bridie was a victim of significant domestic violence where the perpetrator had been convicted of offences relating to the violence. When discussing applying to VAQ, Bridie was incredibly concerned about offender debt recovery. She feared that the perpetrator would retaliate and believed that there would be a significant safety risk to her life. Bridie instructed that, if the Director did not agree to her request not to pursue the perpetrator for the debt, she would not make an application.

LawRight made a request to the Director of VAQ, and they agreed not to pursue the perpetrator, but noted that this decision was not binding on future Directors. On this basis, Bridie agreed to make an application to VAQ and received a Special Assistance Payment as well as ongoing expenses.

LawRight recommends that if the potential for offender debt recovery is explicitly brought to the attention of victims prior to an application being made so that applicants can make informed decisions about their safety, and have the opportunity to request that offender debt recovery is not pursued.

4. Victim Assist Queensland is not exercising its powers under the Act, placing burdens on victims of crime

Under sections 65 and 74 of the Act, VAQ may request information from the Police Commissioner and a designated person under the *Hospital and Health Boards Act 2011*. The applicant provides consent at the time that they sign the application for VAQ to disclose information to other third parties, including relevant health professionals. The application form also provides authority for health professionals to disclose information to VAQ.

In our recent experience, VAQ is not contacting these third parties and is requesting that applicants themselves gather further medical records prior to the application being assessed.

One example of this is Miley*. Miley made an application to VAQ with the assistance of LawRight in August 2021. In her application Miley provided a Police Report detailing the incident and consent for VAQ to her obtain medical records. 18 months later, VAQ contacted LawRight to request that we provide medical records for the application to be assessed. Miley reflected that she found it *“insulting and insensitive”* that VAQ requested further documents 18 months after receiving the application. Miley was experiencing homelessness at the time the application was made, which was a further barrier for her to request medical records. Miley found it frustrating that VAQ knew that she was homeless, and continued to request more information when VAQ could have obtained the documents directly.

Asking victims to obtain further information, when VAQ could seek this information directly, is potentially retraumatising victims and creates further barriers and delays to applications being assessed.

LawRight recommends that VAQ contacts relevant third parties to seek information when it has consent to do so, to relieve the burden on applicants.

Contacting LawRight

Thank you for considering these submissions. If you would like to get in contact with us in relation to these submission, you can call us on [REDACTED] or email [REDACTED]

Yours faithfully

[REDACTED]

Karen Dyhrberg
Principal Solicitor
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LawRight

APPENDIX A

Statement from Client A, Sally*:

“Living with ongoing domestic violence has unfortunately become a part of both my and my daughter’s lives. The extensive physical abuse, sexual assault, financial abuse, and emotional abuse that we have suffered from have caused long term trauma, post traumatic stress disorder, and ongoing mental health issues.

Despite the increased awareness of domestic violence and the supposed reassurance for victims, I have personally experienced instances where my reports of breaches were dismissed or not followed up on by local law enforcement agencies. It is my belief that more needs to be done to ensure the protection of victims of domestic violence.

We are constantly on high alert and fear for our safety. Unfortunately, financial support for domestic violence is extremely limited and the application process for Victims Assist has been difficult. My personal application has taken over 18 months for review, causing overwhelming stress as therapy sessions are costly. It is frustrating when more information is required, as it forces us to relive the events and start treatment all over again.

It is imperative that assistance and access to resources for individuals who have been impacted by domestic violence. Additionally, it is crucial to streamline the approval process for necessary documents to ensure that survivors can move forward with their lives. We must prioritize the needs of those affected by domestic violence and take action to support them.

In Summary, the delay in processing claims by Victim Assist has had a significant impact on those accessing the scheme. In addition, the general processes in place have caused frustration and confusion for many individuals seeking assistance. The offender debt recovery process has also been a source of concern for some, as it can be a lengthy and complicated process. These issues have resulted in increased stress and hardship for those already dealing with the trauma of being a victim of crime. It is important that Victim Assist takes steps to address these concerns and streamline their processes to better serve those in need.”