

20 February 2025

Mr Mark Follett
Executive Director, Policy, Reform and Legislation Branch
Department of Communities and Justice
6 Parramatta Square
10 Darcy Street
Parramatta NSW 2150

By email: policy@dcj.nsw.gov.au

Dear Mr Follett,

RE: *Victims Rights and Support Act 2013* – reform projects

We welcome the invitation provided by the Honourable Mr Michael Daley MP, Attorney General of NSW, to provide feedback in relation to the above reform projects.

1. Background

The [Western Sydney University Justice Clinic](#) is a community legal service, where practicing lawyers and clinical supervisors work on client cases, law reform initiatives, and access to justice projects, as well as operate the university's student legal service and run the law school's experiential learning programs. Part of our caseload involves working with victim-survivors of domestic, family and sexual violence and modern slavery to access victims support through the NSW Victims Support Scheme (VSS) established by the *Victims Rights and Support Act 2013* (NSW)(the Act).

2. Independent Victims Commissioner

We strongly support the establishment of an Independent Victims Commissioner (IVC) as an independent and dedicated advocate for victims and victim groups, and the systemic issues that affect them. We welcome the move to establish a role that is entirely separate from the entity delivering the VSS to avoid conflicts in decision-making and allow for advocacy without being constrained by the need to consider the efficiency and cost-effectiveness of the VSS.

While the Department of Communities and Justice (DCJ) Discussion Paper provides a broad model for an IVC, including a summary of the current and proposed functions and powers under the Act, there are gaps in details about shared functions between the proposed IVC and DCJ, such as the provision of information to victims, and complaints-handling mechanisms. It is also unclear whether the IVC would be empowered to undertake reviews and inquiries into systemic issues on their own initiative, not just at the request of the Attorney-General, which we consider essential to fully enable independent, focused advocacy on such issues.

We support a model whereby an IVC is truly independent – meaning it sits outside the DCJ – well-resourced, and benefits from a consultative mechanism such as a revised or newly created advisory board. Just as the IVC should be accountable and required to report to government, the entity responsible for the VSS and any advisory boards associated with either entity should have similar accountability and reporting obligations.

We suggest that it may be helpful for a further consultation to occur, which pulls together a specific model and draws on helpful legislation and comparison from other jurisdictions (such as the *Victims'*

Commissioner and Sexual Violence Review Board Act 2024 (Qld) and Victims of Crime Commissioner Act 2015 (Vic)) for more robust feedback from stakeholders.

We have had the opportunity to review the submissions of the Women's Legal Service NSW on the Independent Victims Commissioner, and provide our full endorsement.

3. Statutory Review of the *Victims Rights and Support Act 2013* (NSW)

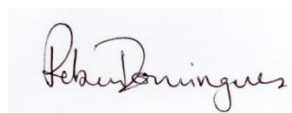
We have been disappointed with the lengthy delay in a response to submissions to the statutory review of the Act which closed on 22 July 2022, to which we contributed our [own submission](#) and contributed to and endorsed the joint submission of [Domestic Violence NSW](#).

We understand that the 2022 submissions will continue to be considered as the review of the Act is finalised, and stand by each recommendation made within those original submissions if the VSS is to function properly as a beneficial, procedurally fair, and trauma-informed scheme. While noting the Attorney-General's description of the growing costs of the VSS, we consider that many of the recommendations at the heart of those submissions once executed properly would contribute to a potentially more sustainable scheme. Barriers to access and associated costs would be improved through fair and more efficient systems and processes (e.g. removing the need for applicants to gather particular supporting material, to provide particular identification, to prove injury in certain matters, to comply with unreasonable time limits), and administrative liaison and internal and external reviews would diminish through amended legislation (e.g. by revising the modern slavery provisions, and removing the need to separately prove injury). The need to prove injury in sexual assault matters where the act of sexual assault is accepted continues to confound. Even where such revisions to the Act may lead to a limited increase in applications, it is vital as a matter of principle that a beneficial scheme does not unnecessarily preclude otherwise eligible victims – including victim-survivors of family and sexual violence and modern slavery – from accessing support.

Since the 2022 review, coercive control has been introduced as the criminal offence of abusive behaviour towards intimate partners under section 54D of the *Crimes Act 1900* (NSW). However, it is unclear whether coercive control is captured effectively by the provisions of the Victims Rights and Support Act. We know victim-survivors who have been refused support under the Act at first instance even where there is clear evidence of coercive control that is accepted by Victims Services, and where coercive control is conceptualised and included as a form of domestic and family violence in legislation.

Finally, we work with many victim-survivors of modern slavery and it is our understanding from our own caseload, the anecdotal evidence of colleagues working in the sector, and statistics obtained from VS annual reports, that not a single award for an act of modern slavery has been approved under the Act since the relevant provisions were introduced in 2022. This requires some serious analysis and attention, including immediate revisions to problematic definitions of modern slavery under the Act recommended almost three years ago which are preventing access to support for victim-survivors of modern slavery.

Yours sincerely,



Rebecca Dominguez

Director & Principal Solicitor, on behalf of the

Western Sydney University Justice Clinic

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