

## INQUIRY INTO SUPPORT PROVIDED TO VICTIMS OF CRIME

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# Inquiry into support provided to victims of crime

Submission to the  
Legal Affairs and  
Safety Committee

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# About knowmore

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## Our service

knowmore legal service (knowmore) is a nation-wide, free and independent community legal centre providing legal information, advice, representation and referrals, education and systemic advocacy for victims and survivors of child abuse. Our vision is a community that is accountable to survivors and free of child abuse. Our aim is to facilitate access to justice for victims and survivors of child abuse and to work with survivors and their supporters to stop child abuse.

From 2013 to 2018, our service assisted people who were engaging with or considering engaging with the Royal Commission into Institutional Responses to Child Sexual Abuse (the Royal Commission). From 1 July 2018, knowmore has delivered legal support services to assist survivors of institutional child sexual abuse to access their redress options, including under the National Redress Scheme (NRS). knowmore also delivers financial counselling services to people participating in the NRS, and works with other services in the NRS support network to support and build their capability. Since 2022, knowmore has also been assisting survivors who experienced child sexual abuse in non-institutional settings, and providing legal and financial counselling support to people engaging with the Territories Stolen Generations Redress Scheme (Territories Redress Scheme).

knowmore uses a multidisciplinary model to provide trauma-informed, client-centred and culturally safe legal assistance to clients. knowmore has offices in Sydney, Melbourne, Brisbane, Perth, Adelaide and Darwin. Our service model brings together lawyers, social workers and counsellors, Aboriginal and Torres Strait Islander engagement advisors and financial counsellors to provide coordinated support to clients.

knowmore is funded by the Commonwealth Government, represented by the Departments of Attorney-General and Social Services and the National Indigenous Australians Agency.

## Our clients

In our Royal Commission-related work, from July 2013 to the end of March 2018, knowmore assisted 8,954 individual clients. The majority of those clients were survivors of institutional child sexual abuse. Almost a quarter (24%) of the clients assisted during our Royal Commission work identified as Aboriginal and/or Torres Strait Islander peoples.

Since the commencement of the National Redress Scheme for survivors of institutional child sexual abuse on 1 July 2018 to 31 March 2023, knowmore has received 87,246 calls to its 1800 telephone line and has completed intake processes for, and has assisted or is currently assisting, 14,531 clients. More than a third (36%) of knowmore's clients identify as Aboriginal and/or Torres Strait Islander peoples. Just under a fifth (17%) of clients are classified as priority clients due to advanced age and/or immediate and serious health concerns including terminal cancer or other life-limiting illness.

## Our clients in Queensland

knowmore has a significant client base in Queensland — 28 per cent of our clients reside in the state. We therefore have a strong interest in how victims and survivors in Queensland are supported to access justice through the criminal justice system and the victims of crime assistance scheme.

# knowmore's submission

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knowmore welcomes the opportunity to contribute to the Legal Affairs and Safety Committee's inquiry into support provided to victims of crime in Queensland. As a community legal centre supporting victims and survivors of child abuse to access justice through a multidisciplinary service delivery model, we have valuable insights about providing trauma-informed, victim-centric and timely support to victims of crime as identified in the inquiry's terms of reference.

In making this submission, we acknowledge the broader context in which the inquiry is taking place and understand the Queensland Parliament's desire for the Committee to examine support for victims of crime beyond our specific client group. We believe, however, that the experiences of victims and survivors of child abuse are likely to be shared by victims of many other crimes, particularly violent crimes, and that improvements to better support victims and survivors of child abuse are likely to have significant benefits for other victims too. We have therefore focused our submission on important issues for victims and survivors of child abuse that are likely to have the most relevance for victims of other crimes.

We begin by discussing ways to provide better support to victims and survivors through the criminal justice system (term of reference 1), before discussing ways to improve the operation and effectiveness of the *Victims of Crime Assistance Act 2009* (VOCA Act) (term of reference 2). Where relevant, we have referred to recommendations from the Women's Safety and Justice Taskforce and the Royal Commission into Institutional Responses to Child Sexual Abuse (Royal Commission). We note our continued support for the implementation of these recommendations as a key avenue for improving the experiences of victims and survivors.

## Support for victims and survivors through the criminal justice system

A common experience reported by some of our clients who have sought a criminal justice response to their child sexual abuse is a feeling of being marginalised or excluded from the process. Some clients have perceived that their interests were given little consideration and that the system itself is unfairly weighted in favour of alleged perpetrators.

In our experience, survivors are often particularly frustrated by their inability to meaningfully participate in police and prosecution processes. Key concerns survivors have raised include:

- not having anyone to contact or not being given meaningful information about the progress of the police investigation
- not being consulted about charging and prosecution decisions, including decisions to withdraw or downgrade charges or accept pleas of guilty to lesser charges

- having difficulties understanding the process and the reasons for certain decisions
- having no voice to raise concerns or ask questions, or simply not knowing the right questions to ask because of a lack of understanding of relevant legal issues.<sup>1</sup>

These problems are compounded by a lack of appropriate, dedicated support for victims and survivors throughout their engagement with the criminal justice system. While many of our clients have been very grateful for the information and assistance provided by Victim Assist's Victim Coordination Program, for example, they often remain frustrated by their inability to access truly independent support and have their individual interests represented throughout the process.<sup>2</sup>

To address these concerns, we submit that the support provided to victims and survivors through the criminal justice system should be improved by:

- embedding a trauma-informed approach to working with victims and survivors at every level of the criminal justice system
- providing victims and survivors with access to free, independent, trauma-informed legal assistance and wraparound support throughout their engagement with the criminal justice system.

## Embedding a trauma-informed approach

We consider it essential for a trauma-informed approach to working with victims and survivors to be embedded at every level of the criminal justice system — from the initial police report, to the investigation and prosecution of offences, to sentencing and parole decisions. This means participants at every level of the criminal justice system:

- ensuring they do no harm to victims and survivors
- delivering services to victims and survivors in accordance with the core trauma-informed principles of safety, trustworthiness, choice, collaboration and empowerment<sup>3</sup>
- recognising the particular needs of victims and survivors and responding to these with an increased level of support.<sup>4</sup>

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1 See further discussion in knowmore, *Submission to the Royal Commission into Institutional Responses to Child Sexual Abuse's criminal justice consultation paper*, 31 October 2016, pp 28–30, <[knowmore.org.au/wp-content/uploads/2018/06/Consultation-Paper-Criminal-Justice-Submission-32-knowmore.pdf](https://knowmore.org.au/wp-content/uploads/2018/06/Consultation-Paper-Criminal-Justice-Submission-32-knowmore.pdf)>.

2 See further discussion in knowmore, *Submission to the Royal Commission into Institutional Responses to Child Sexual Abuse's criminal justice consultation paper*, pp 28–30.

3 See Blue Knot Foundation, *Becoming trauma informed — services*, July 2021, <[professionals.blueknot.org.au/wp-content/uploads/2021/09/45\\_BK\\_FS\\_PR\\_F\\_BecomingTraumaInformed\\_Services\\_July21.pdf](https://professionals.blueknot.org.au/wp-content/uploads/2021/09/45_BK_FS_PR_F_BecomingTraumaInformed_Services_July21.pdf)>.

4 See further discussion in knowmore, *Submission to the Royal Commission into Institutional Responses to Child Sexual Abuse's criminal justice consultation paper*, p 7.

We recommend that a commitment to ensuring that every level of the criminal justice operates within a trauma-informed framework should be incorporated into the Charter of Victims' Rights (Charter) in the VOCA Act.

In light of the experiences of our clients highlighted above, we consider that there needs to be a particular focus on embedding a trauma-informed approach in police and prosecution responses. In relation to victims and survivors of institutional child sexual abuse, the Royal Commission recommended that police and prosecution responses be underpinned by a number of key principles.<sup>5</sup> These principles are appropriate to underpin police and prosecution responses to all types of crime, and we note that some of them are already reflected in the Charter. These include victims being treated with consideration and respect,<sup>6</sup> and being informed about the progress of investigations and prosecutions.<sup>7</sup>

A number of the Royal Commission's other recommended principles are not currently reflected in the Charter and highlight ways the Charter could be strengthened. We specifically support amendments to the Charter to ensure that victims and survivors:

- receive regular communication from police and prosecution agencies, as part of being kept informed of the status of their matter<sup>8</sup>
- are meaningfully consulted about any proposal to downgrade or withdraw charges or to accept a plea of guilty to a lesser or different charge, and are given the opportunity to obtain independent assistance before giving their opinion on the proposal<sup>9</sup>
- are able to exercise their rights around communication and consultation through a support person or organisation if they choose<sup>10</sup>
- are referred to/assisted to contact appropriate support services and access available remedies, not just informed of them.<sup>11</sup>

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5 Royal Commission into Institutional Responses to Child Sexual Abuse (Royal Commission), *Criminal justice report: executive summary and parts I–II*, 2017, Recommendations 7, 12, 37 and 39, <[www.childabuseroyalcommission.gov.au/criminal-justice](http://www.childabuseroyalcommission.gov.au/criminal-justice)>.

6 *Victims of Crime Assistance Act 2009* (Qld), Schedule 1AA, Part 1, Division 1, item 1, consistent with Recommendation 12 (part a).

7 *Victims of Crime Assistance Act 2009* (Qld), Schedule 1AA, Part 1, Division 2, items 1–5, consistent with Recommendations 7 (part b), Recommendation 12 (part h) and Recommendation 37 (part c).

8 Royal Commission, *Criminal justice report: executive summary and parts I–II*, Recommendations 7 (part b), 12 (part h) and 37 (part c).

9 Royal Commission, *Criminal justice report: executive summary and parts I–II*, Recommendation 39 (part d).

10 Royal Commission, *Criminal justice report: executive summary and parts I–II*, Recommendation 12 (part d).

11 Royal Commission, *Criminal justice report: executive summary and parts I–II*, Recommendations 12 (part c) and 37 (part d).



We note that these and other rights are recognised in the ACT's *Victims of Crime Act 1994*,<sup>12</sup> and submit that the ACT's legislation provides a comprehensive model for consideration in Queensland.

In calling for changes to the Charter, we note recommendations from the Women's Safety and Justice Taskforce that the Queensland Government:

- establish a victims' commission as an independent statutory office to promote and protect the needs of victims of all violent offences, with the commissioner to have a specific and dedicated focus on victims of domestic, family and sexual violence and First Nations victims and survivors (Recommendation 18)<sup>13</sup>
- review the Charter and consider whether additional rights should be recognised or existing rights should be expanded (Recommendation 19).<sup>14</sup>

We strongly support the government establishing an independent victims' commission as a matter of priority so that the commissioner may properly review the rights recognised in the Charter, consistent with our comments above.

We also note our support for the position of Women's Legal Service Queensland that victims' rights, as articulated in the Charter, should be made into legally enforceable rights as part of the *Human Rights Act 2019* (Qld).<sup>15</sup> This aligns with Recommendation 20 from the Women's Safety and Justice Taskforce.<sup>16</sup>

## Providing access to free, independent, trauma-informed legal assistance and wraparound support

We consider that giving victims and survivors access to free, independent, trauma-informed legal assistance throughout their engagement with the criminal justice system is critically important for enabling victims and survivors to meaningfully participate in the process. While elements of this already exist (in relation to the protection of counselling

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12 See, for example, section 15 (Referral of victims to support services), section 16A (Police to update victims about status of investigations) and section 16B (DPP to consider victims' views about dealing with charges).

13 Women's Safety and Justice Taskforce, *Hear her voice: report two, volume one*, WSJT, Brisbane, 2022, p 139, <[www.womenstaskforce.qld.gov.au/publications](http://www.womenstaskforce.qld.gov.au/publications)>.

14 Women's Safety and Justice Taskforce, *Hear her voice: report two, volume one*, p 140.

15 See, for example, Women's Legal Service Queensland, *Response to call for public submissions*, Commission of Inquiry into Queensland Police Service responses to domestic and family violence, 8 July 2022, pp 14–15, <[www.qpsdfvinquiry.qld.gov.au/assets/docs/submissions/Women%27s%20Legal%20Service%20Queensland%20Submission%20Nil%20Redactions%20Required.pdf](http://www.qpsdfvinquiry.qld.gov.au/assets/docs/submissions/Women%27s%20Legal%20Service%20Queensland%20Submission%20Nil%20Redactions%20Required.pdf)>. See also knowmore, *Submission on Queensland's Human Rights Bill 2018*, 25 November 2018, <[knowmore.org.au/wp-content/uploads/2020/11/submission-human-rights-bill-2018-qld.pdf](http://knowmore.org.au/wp-content/uploads/2020/11/submission-human-rights-bill-2018-qld.pdf)>.

16 Women's Safety and Justice Taskforce, *Hear her voice: report two, volume one*, p 140.

communications, for example),<sup>17</sup> our strong view is that victims and survivors need to have access to specialist assistance in relation to a broader range of issues and at every stage of the criminal justice response. We envisage victims and survivors being assisted to exercise their rights and protect their interests, including in relation to:

- their engagement with the police and prosecution, including being consulted about prosecution decisions as discussed above on page 7
- their rights and privileges in relation to evidence, for example, special measures for giving evidence under Division 4 of the *Evidence Act 1977* (Qld)
- their rights to privacy and the disclosure of identifying information, for example, prohibitions against publishing complainants' identifying information and the right for complainants to consent to publication under Part 3 of the *Criminal Law (Sexual Offences) Act 1978* (Qld)
- their right to make a Victim Impact Statement as part of sentencing
- their options for redress and compensation, including financial assistance under the VOCA Act (see further discussion on page 12).<sup>18</sup>

Based on our experience as a multidisciplinary service, we consider it essential for this legal assistance to be delivered by dedicated services that can provide wraparound support. The following are key features of knowmore's service delivery model that we recommend be embedded as good practice in the delivery of free, independent and trauma-informed legal assistance to victims and survivors:

- a targeted service that ensures knowmore's funding is first used to assist those with the most need and who are least able to otherwise access legal assistance
- an integrated, multidisciplinary team that brings together lawyers, social workers and counsellors, Aboriginal and Torres Strait Islander engagement advisors and financial counsellors to provide a holistic, comprehensive response to clients' legal and associated non-legal needs
- a supportive, client-centred culture that focuses on providing survivors with assistance at a pace that is suitable for them
- staff and systems built on an understanding of the profound and life-long impacts of childhood trauma on clients' lives, to drive responses that are trauma-informed and appropriate

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17 See Legal Aid Queensland, *Protecting sexual assault counselling records*, 7 September 2020, accessed 11 April 2023, <[www.legalaid.qld.gov.au/Find-legal-information/Factsheets-and-guides/Factsheets/Counselling-Notes-Protect-Service#toc-what-is-the-counselling-notes-protect-service--2](http://www.legalaid.qld.gov.au/Find-legal-information/Factsheets-and-guides/Factsheets/Counselling-Notes-Protect-Service#toc-what-is-the-counselling-notes-protect-service--2)>.

18 See further discussion in knowmore, *Submission to the Royal Commission into Institutional Responses to Child Sexual Abuse's criminal justice consultation paper*, pp 30–32, and in Victorian Law Reform Commission, *Improving the justice system response to sexual offences: report*, VLRC, Melbourne, September 2021, pp 263–268 and Recommendation 46, <[www.lawreform.vic.gov.au/project/improving-the-response-of-the-justice-system-to-sexual-offences/](http://www.lawreform.vic.gov.au/project/improving-the-response-of-the-justice-system-to-sexual-offences/)>.

- a framework of Aboriginal and Torres Strait Islander culture safety, which has an appreciation and conceptualisation of Aboriginal and Torres Strait Islander cultural knowledge as its own discipline at its centre.

These features can be summarised by describing knowmore as a service that delivers targeted, joined-up, timely, appropriate, survivor-focused, trauma-informed and culturally safe legal assistance and other support to victims and survivors of child abuse.<sup>19</sup> We consider this offers a valuable and feasible model for supporting victims and survivors of other crimes throughout the criminal justice system.

## Operation and effectiveness of the *Victims of Crime Assistance Act 2009*

The financial assistance provided to victims of crime under the VOCA Act forms part of the suite of legal options available to victims and survivors of child abuse in Queensland, alongside the National Redress Scheme for institutional child sexual abuse, institutional redress schemes, civil claims for compensation, and criminal court reparation orders. Barriers to accessing these other options mean that assistance under the VOCA Act can be a particularly important avenue for some victims and survivors to seek recognition and acknowledgement of their abuse and financial support to help alleviate the impacts of that abuse on their lives.

As a national service, we know that Queensland's financial assistance scheme (subsequently referred to as the Victim Assist scheme) compares favourably in some ways to equivalent schemes in other jurisdictions. For example:

- The total amount of financial assistance available to primary victims under the VOCA Act (\$75,000) is above the average for other jurisdictions (about \$60,000).<sup>20</sup>
- Processes in Queensland better recognise some of the realities of child sexual abuse, for example, in allowing victims of sexual offences (and other special victims) to report acts of violence to a counsellor, psychologist or doctor in addition to police,<sup>21</sup> and recognising diffuse impacts of sexual offences (and domestic violence) in defining 'injury'.<sup>22</sup>

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19 The qualities of targeted, joined-up, timely and appropriate reflect what the Law and Justice Foundation of New South Wales has previously identified as the 4 key precepts of public legal assistance services: P Pleasence, C Coumarelos, S Forell and HM McDonald, *Reshaping legal assistance services: building on the evidence base: a discussion paper*, Law and Justice Foundation of New South Wales, Sydney, April 2014, <[www.lawfoundation.net.au/ljf/app/&id=D76E53BB842CB7B1CA257D7B000D5173](http://www.lawfoundation.net.au/ljf/app/&id=D76E53BB842CB7B1CA257D7B000D5173)>.

20 *Victims of Crime Assistance Act 2009* (Qld), subsection 38(1).

21 *Victims of Crime Assistance Act 2009* (Qld), section 81.

22 *Victims of Crime Assistance Act 2009* (Qld), paragraph 27(1)(f).

- Assistance payments for victims and survivors under the VOCA Act are not reduced by payments received under the National Redress Scheme.<sup>23</sup>

However, the Victim Assist scheme also has a number of shortcomings that can prevent survivors from accessing assistance and mean that survivors often do not derive significant benefits from the scheme.

In seeking to ‘provide better, trauma informed and timely assistance and support’ to victims and survivors of child abuse, we note that our recommendations above for improved support through the criminal justice system apply equally here — that is, a trauma-informed approach should be embedded in the design and operation of the Victim Assist scheme, and legal assistance services for victims should have a specific role in helping victims to access and navigate the scheme. We further submit that there should be a focus on:

- reducing potential barriers to victims and survivors accessing assistance under the VOCA Act
- providing victims and survivors with additional and more meaningful assistance under the VOCA Act.

We provide more comments on these points below. For more comprehensive commentary on the needs of victims and survivors in relation to statutory victims of crime schemes like Victim Assist, we direct readers to a number of knowmore’s previous submissions.<sup>24</sup>

We note that although we have suggested some specific changes to the VOCA Act below, we reiterate our support for an independent victims’ commission (see page 8) and would support the VOCA Act being subjected to a comprehensive review by the new commissioner.

## Reducing potential barriers to accessing assistance

In our view, there are 5 key ways to reduce potential barriers to victims and survivors of child abuse accessing assistance under the VOCA Act:

1. Increase awareness of the Victim Assist scheme.
2. Remove time limits to apply for assistance.
3. Lower the evidentiary threshold for receiving assistance.
4. Make it easier for victims to claim assistance for expenses.

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23 *Victims of Crime Assistance Act 2009* (Qld), Schedule 3, definition of ‘relevant payment’, paragraph (d).

24 See, for example, knowmore, *Submission on Queensland’s Victims of Crime Assistance Act 2009*, 9 December 2014, <[knowmore.org.au/wp-content/uploads/2020/11/submission-review-of-the-victims-of-crime-assistance-act-2009-qld.pdf](https://knowmore.org.au/wp-content/uploads/2020/11/submission-review-of-the-victims-of-crime-assistance-act-2009-qld.pdf)>; knowmore, *Submission to the Royal Commission into Institutional Responses to Child Sexual Abuse on issues paper 7: statutory victims of crime compensation schemes*, August 2014, <[knowmore.org.au/wp-content/uploads/2020/11/submission-issues-paper-7-statutory-victims-of-crime-compensation-schemes-royal-commission.pdf](https://knowmore.org.au/wp-content/uploads/2020/11/submission-issues-paper-7-statutory-victims-of-crime-compensation-schemes-royal-commission.pdf)>; knowmore, *Submission on Victoria’s Victims of Crime Assistance Act 1996*, 7 November 2017, <[knowmore.org.au/wp-content/uploads/2020/11/submission-review-of-the-victims-of-crime-assistance-act-1996-vic.pdf](https://knowmore.org.au/wp-content/uploads/2020/11/submission-review-of-the-victims-of-crime-assistance-act-1996-vic.pdf)>.

5. Reduce the time taken to process applications for assistance.

## Increase awareness of the Victim Assist scheme

In our experience, many victims and survivors are unaware of the assistance available to victims of violent crime through Victim Assist. This is consistent with recent comments describing the scheme as ‘poorly publicised’.<sup>25</sup> An inevitable outcome of this is that few victims will seek to access the scheme — we note that it was reported in 2014 that only 5 per cent of victims of violent offences went on to make a claim for assistance under the VOCA Act.<sup>26</sup> We expect uptake continues to be low, as indicated by the Department of Justice and Attorney-General (DJAG) at the Committee’s public briefing.<sup>27</sup>

On page 7 above, we called for victims and survivors to be referred to/assisted to contact appropriate support services and access available remedies as part of their engagement with the criminal justice system. As part of that, we support all victims of violent crime being made aware of, and assisted to access, the Victim Assist scheme at the point of making a police report, and at additional points throughout any subsequent investigation and prosecution where necessary. The wraparound legal assistance services we have recommended above would also have an important role to play in making victims aware of the Victim Assistance scheme, as part of their work in helping victims to access and navigate the scheme.

## Remove time limits to apply for assistance

Generally, victims can apply to Victim Assist in relation to crimes committed against them as children until they turn 21, although this time limit can be extended by the scheme. Our experience is that applications from victims and survivors of child abuse outside of the standard time limit are rarely refused and we welcome this approach from Victim Assist. Nevertheless, we are concerned that the time limit in the legislation fails to recognise that delayed disclosure is common among survivors of child abuse<sup>28</sup> and may deter some survivors from applying for financial assistance under the VOCA Act. This is likely to be a particular risk where survivors lack information about the scheme and do not have support to apply.

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25 Victims of Youth Crime Collective, *Submission to sitting members of the Economics and Governance Committee for consideration in the inquiry into Strengthening Community Safety Bill 2023*, p 27, <[documents.parliament.qld.gov.au/com/EGC-A022/YJDRAFTTIT-9F73/submissions/00000003.pdf](https://documents.parliament.qld.gov.au/com/EGC-A022/YJDRAFTTIT-9F73/submissions/00000003.pdf)>.

26 Department of Justice and Attorney-General, *Review of the Victims of Crimes Assistance Act 2009: consultation paper*, DJAG, Brisbane, October 2014, p 13, <[www.publications.qld.gov.au/dataset/review-of-the-victims-of-crime-assistance-act-2009/resource/b9a6e42d-bfd8-4c8f-88c3-51ff490b1666](https://www.publications.qld.gov.au/dataset/review-of-the-victims-of-crime-assistance-act-2009/resource/b9a6e42d-bfd8-4c8f-88c3-51ff490b1666)>.

27 See comments from Ms Nicola Doumany, Executive Director, Community Justice Services (DJAG) at the Committee’s public briefing on 31 March 2023 (p 5 of the proof transcript).

28 The Royal Commission reported that survivors who participated in private sessions took, on average, 23.9 years to disclose the abuse to someone: Royal Commission, *Final report: volume 4, identifying and disclosing child sexual abuse*, 2017, p 30, <[www.childabuseroyalcommission.gov.au/identifying-and-disclosing-child-sexual-abuse](https://www.childabuseroyalcommission.gov.au/identifying-and-disclosing-child-sexual-abuse)>.

We recommend that time limits to apply for assistance under the VOCA Act be removed for victims and survivors of child abuse. This would embed recognition of delayed disclosure in the VOCA Act and be consistent with the removal of limitation periods for child abuse claims under the *Limitation of Actions Act 1974* (Qld).<sup>29</sup> It would also be consistent with some other jurisdictions' victims of crime assistance schemes.<sup>30</sup>

## Lower the evidentiary threshold for receiving assistance

There are 2 particular requirements in the VOCA Act that have the potential to severely restrict the ability of victims and survivors of child abuse to access financial assistance under the Victim Assist scheme.

1. Victims and survivors are only eligible for assistance under the VOCA Act (as primary victims) if they have been injured as a direct result of their abuse.<sup>31</sup> Proving causation can be difficult for many victims and survivors given their experience of multiple episodes of violence across their lives — for example, it has been estimated that survivors of child sexual abuse are 2 to 3 times more likely to be sexually revictimised in adolescence and/or adulthood.<sup>32</sup> In these circumstances, causation is a live and complex issue.

We consider that requiring any survivor of child abuse to prove that they were injured by that abuse is also unnecessary and inappropriate given the significant body of research demonstrating the inherent, debilitating and often life-long health impacts of abuse. The recent Australian Child Maltreatment Study, for example, found that people who experienced childhood maltreatment were 4.6 times more likely to have current PTSD; 3.2 times more likely to have major depressive disorder; 2.6 times more likely to have severe alcohol use disorder; and 1.2 times more likely to have obesity.<sup>33</sup>

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29 Section 11A. Limitation periods were removed for child sexual abuse claims on 1 March 2017 [as per the *Limitation of Actions (Child Sexual Abuse) and Other Legislation Amendment Act 2016*] and for serious physical abuse claims and connected psychological abuse claims on 2 March 2020 [as per the *Civil Liability and Other Legislation Amendment Act 2019*].

30 In Victoria, there is no time limit to apply for assistance in relation to child abuse (physical abuse or sexual abuse) [*Victims of Crime Assistance Act 1996* (Vic), subsection 29(1A)]. In New South Wales, there is no time limit to apply for a recognition payment in relation to child sexual abuse [*Victims Rights and Support Act 2013* (NSW), subsection 40(7)].

31 *Victims of Crime Assistance Act 2009* (Qld), subsection 26(1).

32 M Stathopoulos, *Sexual revictimisation: individual, interpersonal and contextual factors*, ACSSA Research Summary, Australian Centre for the Study of Sexual Assault, Australian Institute of Family Studies, Melbourne, May 2014, <[aifs.gov.au/resources/practice-guides/sexual-revictimsation](https://aifs.gov.au/resources/practice-guides/sexual-revictimsation)>.

33 D Haslam, B Mathews, R Pacella et al, *The prevalence and impact of child maltreatment in Australia: findings from the Australian Child Maltreatment Study: brief report*, Australian Child Maltreatment Study, Queensland University of Technology, Brisbane, 2023, pp 25 and 28, <[www.acms.au/resources/the-prevalence-and-impact-of-child-maltreatment-in-australia-findings-from-the-australian-child-maltreatment-study-2023-brief-report/](https://www.acms.au/resources/the-prevalence-and-impact-of-child-maltreatment-in-australia-findings-from-the-australian-child-maltreatment-study-2023-brief-report/)>.

2. Eligibility for assistance under the VOCA Act is assessed on the balance of probabilities.<sup>34</sup> This is the same standard of proof that applies in civil law proceedings, and, in our view, is inappropriate in a scheme that is not intended to provide compensation equivalent to common law damages<sup>35</sup> and does not purport to make findings of liability based on common law principles.

To address these barriers, we support changes to the VOCA Act to a) remove the requirement for victims and survivors of child abuse to prove that they were injured as a result of their abuse and b) assess victims' eligibility for assistance according to a lower standard of proof. We suggest that 'reasonable likelihood', as adopted in the National Redress Scheme in line with recommendations of the Royal Commission,<sup>36</sup> offers a more appropriate standard of proof under the VOCA Act.<sup>37</sup>

## Make it easier for victims to claim assistance for expenses

In our experience, victims and survivors need to submit an enormous amount of paperwork to support claims for expenses such as counselling and medical expenses. Survivors often need a great deal of support from services like ours to do this, and many survivors will not bother claiming for these expenses if it is too difficult for them to gather the required documents. For these survivors, the burden of the application process significantly outweighs the relatively small amounts of assistance on offer (see further discussion of these below).

It is beyond argument that victims and survivors of child abuse experience significant adverse impacts as a result of their abuse, including significant mental and physical health impacts as noted on page 13 above. These impacts frequently necessitate significant levels of contact with counsellors and other health providers — for example, the Australian Child Maltreatment Study found that, in the last 12 months, people who experienced child maltreatment were 2.3 times more likely to have had 24 or more visits to any health practitioner, 2.4 times more likely to have seen a psychologist and 3.0 times more likely to have seen a psychiatrist.<sup>38</sup> We recommend that these realities be recognised within the

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34 *Victims of Crime Assistance Act 2009* (Qld), section 78.

35 See subsection 3(3), *Victims of Crime Assistance Act 2009* (Qld).

36 *National Redress Scheme for Institutional Child Sexual Abuse Act 2018* (Cth), paragraph 12(2)(b), and section 6, definition of 'reasonable likelihood'. See Royal Commission, *Redress and civil litigation report*, 2015, Recommendation 57, <[www.childabuseroyalcommission.gov.au/redress-and-civil-litigation](http://www.childabuseroyalcommission.gov.au/redress-and-civil-litigation)>.

37 We note that an independent review of the National Redress Scheme concluded that the 'reasonable likelihood' standard remained appropriate, but that there were inconsistencies in the way the standard was being applied by decision-makers. This highlights the importance of decision-makers being appropriately skilled and equipped to apply the legislated standard of proof. See R Kruk AO, *Final report: second year review of the National Redress Scheme*, 26 March 2021, pp 62–64 and Recommendation 3.4, <[www.nationalredress.gov.au/document/1386](http://www.nationalredress.gov.au/document/1386)>.

38 D Haslam, B Mathews, R Pacella et al, *The prevalence and impact of child maltreatment in Australia*, p 31.

Victim Assist scheme through an application process that removes the need for victims to provide detailed supporting documentation for claims for expenses.

## Reduce the time taken to process applications for assistance

In our experience, there are often significant delays in Victim Assist processing applications from victims and survivors. While some applications have been processed within a few months, most take up to 2 years or longer. Such delays prevent victims and survivors from accessing assistance that may help with their recovery, and are often an additional source of stress, anxiety and uncertainty that can exacerbate their trauma.

We note and welcome recent steps taken by Victim Assist to reduce processing times and increase the number of decisions being made.<sup>39</sup> However, our recent experience suggests that further measures are likely to be required. It particularly appears to us that Victim Assist is not adequately resourced to process applications in a timely manner. We would therefore recommend that particular consideration be given to funding and resourcing in seeking to provide more timely assistance to victims.

We note that some of the other changes we have recommended here — for example, lowering the evidentiary threshold and making it easier for victims to claim expenses — may also have the added benefit of reducing application processing times.

## Providing additional and more meaningful assistance

We strongly support 3 key avenues for providing victims and survivors with additional and more meaningful assistance under the VOCA Act:

1. Provide higher, more appropriate amounts of financial assistance.
2. Embed access to free counselling services in the VOCA Act.
3. Provide access to personal acknowledgments as part of the scheme.

## Provide higher, more appropriate amounts of financial assistance

The maximum amount of assistance available under the VOCA Act is \$75,000.<sup>40</sup> This includes a maximum special assistance payment of \$10,000 for victims of violence.<sup>41</sup> These maximum assistance amounts have not changed since the VOCA Act commenced in 2009.<sup>42</sup>

These amounts of assistance are completely inadequate when considered against the debilitating and life-long trauma suffered by many victims and survivors of child abuse. Notwithstanding some of the barriers to accessing assistance identified above, even the maximum amount of assistance available under the VOCA Act is inadequate to meet the healing and support needs of victims and survivors. These problems are only exacerbated by the fact that assistance amounts have not been increased in 14 years.

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39 See comments from Ms Nicola Doumany, Executive Director, Community Justice Services (DJAG) at the Committee's public briefing on 31 March 2023 (p 2 of the proof transcript).

40 *Victims of Crime Assistance Act 2009* (Qld), subsection 38(1).

41 *Victims of Crime Assistance Act 2009* (Qld), Schedule 2, item 2 (category A act of violence).

42 See the *Victims of Crime Assistance Act 2009* (Qld) as made, <[www.legislation.qld.gov.au/view/html/inforce/2009-09-17/act-2009-035](http://www.legislation.qld.gov.au/view/html/inforce/2009-09-17/act-2009-035)>.



Victims and survivors see the special assistance payments provided under the Victim Assist scheme as particularly unacceptable given that these payments are intended to recognise the impact of the harm caused to the victim. A sum as low as \$10,000 is perceived by some survivors as sending a message that the crimes committed against them, and the devastating impacts of those crimes, are not regarded by the law or the community as being significant.

Given these criticisms, we argue that the Victim Assist scheme cannot reasonably be expected to be achieving its objectives of a) helping victims to recover from the crimes committed against them and b) giving victims 'a symbolic expression by the State of the community's recognition of the injuries suffered by them'.<sup>43</sup> We therefore recommend that the amounts of financial assistance available under the VOCA Act be increased to better reflect the support needs of victims and survivors and community standards regarding violent crimes. On this point, we note that South Australia currently sets the benchmark for payments under victims of crime assistance schemes, with a maximum available amount of \$100,000.<sup>44</sup> We urge Queensland to consider increasing its maximum assistance amount to at least match this.

As a further point of comparison, we note that victims and survivors of institutional child sexual abuse may receive payments of up to \$150,000 under the National Redress Scheme.<sup>45</sup> While we acknowledge that it is unlikely to be feasible to immediately increase payments under the Victim Assist scheme to this level, we believe the payments available under the National Redress Scheme show where governments should ultimately be aiming for victims and survivors of child abuse.

## Embed access to counselling services in the VOCA Act

We acknowledge that the Department of Justice and Attorney-General (DJAG) currently funds 5 services to provide counselling and other support to victims of crime.<sup>46</sup> In our recent experience, there are some significant limitations to the counselling services being provided under these arrangements — for example, counselling is only being provided over the phone and victims are usually able to access no more than 5 sessions. We nevertheless consider that access to counselling is an essential component of support for victims and survivors of child abuse (and other violent crimes) and we certainly support the Queensland Government continuing this funding.

While some funding is currently being provided, access to free counselling services for victims and survivors is not provided for in the VOCA Act itself. Rather, the VOCA Act is focused solely on establishing a financial assistance scheme. This contrasts to the comparable scheme in New South Wales, where support for victims specifically includes counselling services under the legislation.<sup>47</sup>

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43 *Victims of Crime Assistance Act 2009* (Qld), paragraphs 3(2)(a) and (b).

44 *Victims of Crime Act 2001* (SA), subsection 20(3).

45 *National Redress Scheme for Institutional Child Sexual Abuse Act 2018* (Cth), paragraph 16(1)(a).

46 See comments from Ms Nicola Doumany, Executive Director, Community Justice Services (DJAG) at the Committee's public briefing on 31 March 2023 (p 2 of the proof transcript).

47 *Victims Rights and Support Act 2013* (NSW), subsection 26(1).

We strongly support the VOCA Act being amended to establish access to counselling services as a specific component of the Victim Assist scheme. In our view, incorporating this into legislation provides appropriate recognition of the importance of non-financial assistance for victims and survivors and creates an imperative for the government to support and fund appropriate counselling services now and into the future. We suggest that providing access to counselling services under the VOCA Act may also help to address the perception of some victims and survivors that the scheme is more about the government being able to say it is doing something than it is about meaningfully supporting victims.

Obviously, any legislative commitment to counselling services will need to be met with significant government investment in funding and resourcing to ensure appropriate services are available. We emphasise here the importance of the Queensland Government ensuring that Queensland has a responsive therapeutic treatment service system for victims and survivors of child abuse (and other violent crimes), with services that meet the Royal Commission’s principles of being trauma-informed, collaborative, available, accessible, acceptable and high quality.<sup>48</sup>

## Provide access to personal acknowledgments as part of the scheme

For many victims and survivors, having someone recognise the crimes committed against them and acknowledge how those crimes have impacted their lives is the most important outcome of seeking justice and a critical part of their healing journey. We have particularly seen this in the work we do supporting survivors of institutional child sexual abuse to access the National Redress Scheme which, among other things, provides eligible survivors with the opportunity to receive a direct personal response from the institution responsible for their abuse.<sup>49</sup> A direct personal response is an opportunity for survivors to receive an apology or other recognition from the institution for the harm they experienced.<sup>50</sup> A similar mechanism exists under the Territories Stolen Generations Redress Scheme,<sup>51</sup> where eligible survivors are given the opportunity to receive a personal acknowledgement from a senior government representative.<sup>52</sup>

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48 See Royal Commission, *Final report: volume 9, advocacy, support and therapeutic treatment services*, 2017, section 2.5 (pp 60–82) and Recommendations 9.1 and 9.6, <[www.childabuseroyalcommission.gov.au/advocacy-support-and-therapeutic-treatment-services](http://www.childabuseroyalcommission.gov.au/advocacy-support-and-therapeutic-treatment-services)>.

49 *National Redress Scheme for Institutional Child Sexual Abuse Act 2018* (Cth), paragraph 16(1)(c).

50 Australian Government, ‘National Redress Guide – Version 1.14’, Guides to Social Policy Law, Department of Social Services website, 3 January 2023, accessed 11 April 2023, part 5.3, <[guides.dss.gov.au/national-redress-guide/5/3](http://guides.dss.gov.au/national-redress-guide/5/3)>.

51 See <[territoriesredress.gov.au/](http://territoriesredress.gov.au/)> for more information.

52 National Indigenous Australians Agency, *Personal acknowledgment*, Territories Stolen Generations Redress Scheme website, n.d., accessed 11 April 2023, <[territoriesredress.gov.au/personal-acknowledgement](http://territoriesredress.gov.au/personal-acknowledgement)>.

We note that Victoria's new financial assistance scheme<sup>53</sup> includes specific provisions relating to victim recognition. Specifically, victims who receive assistance under the scheme will be able to ask the scheme for a 'victim recognition statement' or 'victim recognition meeting' to acknowledge the effects of the crime on them.<sup>54</sup> Victim recognition meetings will be held with a scheme decision-maker and give victims the opportunity to speak about how the crime has affected them and discuss these effects with the decision-maker.<sup>55</sup> These provisions are consistent with recommendations from the Victorian Law Reform Commission, which concluded that:

*While ... some victims may feel recognised and acknowledged by payments of financial assistance, in the Commission's view, recognition for victims under [victims of crime assistance schemes] is better provided for in non-pecuniary ways, through comprehensive statements of reasons for decisions, recognition statements and through the introduction of victim conferences.<sup>56</sup>*

Given the value many survivors place on personal responses/acknowledgements in the redress schemes mentioned above, we strongly support the VOCA Act being amended to provide recognition options for victims that are consistent with those in Victoria.

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53 Expected to become operational in the second half of 2023. See Victorian Law Reform Commission, *Implementation*, n.d., accessed 11 April 2023, <[www.lawreform.vic.gov.au/all-projects/implementation/](http://www.lawreform.vic.gov.au/all-projects/implementation/)>.

54 *Victims of Crime (Financial Assistance Scheme) Act 2022* (Vic), sections 40 and 41.

55 *Victims of Crime (Financial Assistance Scheme) Act 2022* (Vic), subsections 41(1) and (3).

56 Victorian Law Reform Commission, *Review of the Victims of Crime Assistance Act 1996: report*, VLRC, Melbourne, July 2018, p 192, <[www.lawreform.vic.gov.au/project/victims-of-crime-assistance-act-1996/](http://www.lawreform.vic.gov.au/project/victims-of-crime-assistance-act-1996/)>.

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Image inspired by original artwork by Ngunawal man Dean Bell, depicting knowmore's connection to the towns, cities, missions and settlements within Australia.

knowmore acknowledges the Traditional Owners of the lands and waters across Australia upon which we live and work. We pay our deep respects to Elders past and present for their ongoing leadership and advocacy.

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