



SUBMISSION

Prepared by South-East Monash Legal Service Inc. for the
Attorney-General's Department
**Scoping the development of specialised and trauma-informed legal services
for victims and survivors of sexual assault**

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Our organisation

Established in 1973, South-East Monash Legal Service (**'SMLS'**) is a community legal centre that provides free legal advice, assistance, information and education to people experiencing disadvantage in our community within the City of Greater Dandenong, the City of Casey and the Shire of Cardinia.

SMLS operates a duty lawyer service at various courts in Victoria, including Dandenong Magistrates Court, the Children's Court and provides legal representation at courts and tribunals such as the Victorian Civil and Administrative Tribunal, Fair Work Commission, Federal Circuit Court, Family Court and Victims of Crime Assistance Tribunal.

For most of the 40 years in operation, SMLS has been running a clinical legal education program in conjunction with Monash University's Faculty of Law, whereby law students undertake a practical placement at the legal service as part of their undergraduate degree.

SMLS has an extensive community legal education program that is developed in response to feedback from the range of community engagement and community development activities that we are and have been involved in.

SMLS also has a significant policy, advocacy, and law reform program, contributing to reforms in family violence laws and practices, access to civil procedure reforms, employment law, sexual assault and victims of crime, youth law, gambling and electronic gaming machines and other legal topics relevant to our service delivery and the needs of our community.

Acknowledgement of Country

SMLS wishes to acknowledge the traditional custodians of this lands upon which our office are located, the Wurundjeri and the Boon Wurrung peoples. We pay our respects to the Elders past, present and emerging.

We acknowledge the people, traditions, culture and strength of Aboriginal and Torres Strait Islander peoples, and the fight for survival, justice and country that has taken place across Victoria and Australia.

We sincerely thank the Traditional Custodians for caring for Country for thousands of generations. SMLS recognises the ongoing impact of colonisation, dispossession and racism experienced by Aboriginal peoples. As a Community Legal Centre, we acknowledge the violence of Australian law and its ongoing role in processes of colonisation. We recognise that sovereignty was never ceded, and that this always was and always will be Aboriginal land.

Consultation Questions

We have addressed the following questions:

- Question 8: How can we best ensure legal services are trauma-informed, victim- and survivor-centric, culturally safe and accessible for victims and survivors and service providers?
- Question 9: What legal service delivery approaches or models should the pilot explore as a priority?
- Question 10: What legal services gaps and barriers should the pilot prioritise addressing?
- Question 11: How should we measure the success and impact of the legal service pilot?
- Question 12: Any other issues that should be considered in the development of the legal services pilot?

Acronyms

SMLS	South-East Monash Legal Service Inc.
ISSA	Integrated Services for Survivor Advocacy
VOCAT	Victims of Crime Assistance Tribunal
SCIP	Support, Connect, Integrated Program

Introduction

We thank the Attorney-General's Department for the opportunity to provide feedback in relation to the development of specialized and trauma informed legal services for victims and survivors of sexual assault.

SMLS has a proud history of supporting victim survivors of sexual assault through our ISSA partnership, which provides legal advice, assistance and representation to victims/survivors of sexual assault. SMLS also employs a multi-disciplinary and holistic service through our SCIP program. SCIP encompasses a social work program and a financial counselling partnership with Good Shepherd ANZ to provide complementary support for the many diverse needs our clients may have. The impact of sexual harm may have a flow on effect on many aspects of victim survivors' lives, and may need to interact with other services which the SCIP team can provide support with. Our integrated services provide a 'one-stop-shop' for clients and promotes more effective inter-agency collaboration for an effective service delivery and minimize the risk of overlooking any gaps in the support offered to the person experiencing sexual harm.

Based on our observations of our clients' experiences, we now provide our submissions.

Question 8: How can we best ensure legal services are trauma-informed, victim- and survivor-centric, culturally safe and accessible for victims and survivors and service providers?

Based on SMLS's own experiences, we recommend taking a holistic, integrated and multi-disciplinary approach to attending to clients' needs. We recommend that the optimum model would be that of a legal service with ready access to inhouse social work, financial counselling, youth work and other social service support is best placed to providing trauma-informed and victim/survivor-centric support.

For example, SMLS provides a holistic service for victim survivors of sexual assault and/or family violence through our *Integrated Services for Survivor Advocacy (ISSA)* program.. For over 25 years, we have been working in partnership with the South Eastern Centre Against Sexual Assault assisting victims of sexual assault to navigate the legal system. SECASA is a specialist sexual assault and family violence service assisting people in South Eastern Melbourne with therapeutic intervention, counselling, crisis response, community education and other services. The partnership program was recently renamed ISSA. ISSA provides legal advice, assistance and representation to victims/survivors of sexual assault, and family members affected by the assault other than the offender. The service specializes in Applications for Assistance to the Victims of Crime Assistance Tribunal. In 2019-2020 financial year, SMLS clients were awarded over \$550,000 from VOCAT. This specialist program has operated since 1995 and works closely with SECASA counsellors. ISSA is supported by SMLS staff, volunteers and Clinical Placement students from Monash University Faculty of Law. The clinic operates on a referral basis from SECASA. An SMLS community lawyer has previously been embedded into the SECASA team at the

Dandenong, Seaford and Bentleigh Multidisciplinary Centres to provide on-site advice and legal assistance.

Clients accessing the ISSA program receive the provision of legal assistance and social work support. This integrated service provides complex case management to community members so that interventions, actions and support have a medium term, sustainable outcome for the individual and allows for the client to move from crisis to stability to resilience with the assistance of a multidisciplinary team that supports a client through the challenges they face in a strategic, timely and accessible way.

It should be noted that complimentary to the holistic and trauma-informed approach at SMLS is our flexibility with appointments. Clients can speak with us over the phone, through video conference or come in person to discuss their matters. Working at the client's pace where possible facilitates an accessible and safe service.

Services should also be mindful of the intersecting complexities many clients who engage with community legal services face. The social, financial, health and legal needs of clients are often entangled. For example, SMLS often sees victim survivors of family violence, who may also require additional support with their immigration status, at risk of homelessness, and experiencing mental health and financial issues in addition to other legal challenges including fines or tenancy issues. Our integrated team can address each of these problems through legal assistance and complimentary social support. SMLS also offers interpreters to assist clients who are culturally and linguistically diverse, and flexible appointments both on-site and over the phone, to accommodate a client's needs and wishes.

CASE STUDY:

OLIVIA:

Olivia was the victim of a violent rape by a distant relative when she was a teenager. The offender was convicted and received a prison sentence. The sexual assault and the lack of support from her family had a devastating effect on Olivia's life. She dropped out school, left home and lived in temporary housing. Olivia suffers from a range of psychological issues including PTSD, depression, nightmares, and memory loss which are directly linked to assault. Olivia found work in retail but has had difficulty in holding a job due to her mental health.*

In 2019, Olivia was referred to us by South East Centre for Sexual Assault and Family Violence (SECASA). Olivia thought that she was too late to apply for compensation as the rape had occurred more than 20 years ago, but the counsellor at SECASA told her that she may still be able to make a claim. We were able to help Olivia by lodging an application for assistance with the Victims of Crime Assistance Tribunal (VOCAT) as a primary victim.

In early 2020 VOCAT made a final award. Olivia received a cash payment in recognition of her suffering as a victim of crime. Olivia used the cash payment to purchase a second hand car. Olivia also received an award for psychological counselling and yoga classes with a gym near her.

CASSIE

Cassie was raped on almost a daily basis by her father from the ages of 3 to 17. The abuse often took place in her parents' bed when her mother was present. Cassie's mother did not approve of the abuse but took no action to stop it or to protect Cassie. Out of jealousy, Cassie's mother would often assault her viciously. When Cassie was 8 years of age she was tied to a chair and stabbed in the eye by her mother. Her mother told her this was "an eye for an eye for stealing her husband".*

When Cassie was a teenager, her father started to "sell" her sexual services to his friends and acquaintances. She ran away from home regularly and reports were made to the Department of Human Services (DHS) but despite regular respite in foster care, Cassie was usually returned to her father's care. By the age of 17, her father had sold her into sexual servitude at a brothel and although Cassie worked 7 days a week, her earnings were taken by her father. Cassie fled overseas when she turned 18 and worked abroad for many years before her mental health started to deteriorate and she was forced to return to Australia as she could no longer work.

Cassie is now in her 40s and suffers serious mental health issues. She lives alone, has never married nor had children – she does not have any friendships or personal relationships. She is agoraphobic and rarely leaves the safe confines of her home. She struggles with hygiene and rarely washes as showering and bathing remind her of her time working in the brothel. She suffers complex post-traumatic stress symptoms and self-harms. She has made countless attempts to take her life. Reminders of her abuse often trigger a suicide attempt.

When she was in her thirties, Cassie reported the abuse to the police. An investigation ensued however, no charges were laid against Cassie's parents. The investigating officer believed Cassie however, given her complex mental health issues, felt that taking part in a criminal prosecution would be beyond Cassie's emotional capabilities.

Cassie was referred to SMLS by SECASA. Cassie requires a great deal of assistance. As a result of the injury to her eye, Cassie is visually impaired. It is hoped that the VOCAT will assist her in modifying her home to take into account her visual limitations. Her needs in terms of psychiatric and psychological support are extensive. In addition to this, Cassie withdraws from the process regularly, as her self-worth is so fragmented, she does not feel she is worthy of any assistance and she sabotages her application. She is uncontactable for months on end. She desperately wants acknowledgement and assistance from VOCAT

JOHN

John was raped by his father from the age of 3 to 14 years. His father was physically violent and often drugged John before the sexual assaults occurred. John was also present on one occasion when his father raped John's little sister. John's parents separated when he was a teenager and he became estranged from his father. John struggled with significant psychological issues as a result of the childhood abuse and sought treatment when he was in his 30s. After years of treatment, John garnered the strength to report the abuse to the police. The police interviewed the offender and were preparing to lay charges when the offender took his life. In his suicide note, the offender made reference to John's allegations of sexual abuse.*

There was a coronial inquest into the death of John's father and, despite the police investigation that was occurring at the time of the suicide and that the sexual abuse was specifically referenced in the deceased's suicide note, no references to John nor the accusations of abuse were made in the Coroner's findings.

John was left feeling invisible and unheard by the coronial inquest.

Due to the death of his father, no criminal prosecution ensued despite the police view that the prosecution case had appeared strong and likely to result in a conviction. John was therefore denied any recognition through the criminal justice system.

John's father died intestate and John's step-mother inherited the entirety of the estate. John and his two siblings were not acknowledged in the distribution of the estate.

With support from a lawyer, John lodged a VOCAT application. The Tribunal offered to resolve John's application by way of section 33 determination (i.e. without a hearing) on the basis that all expenses claimed would be paid. However, John felt very strongly that he wished to appear before the Tribunal to "tell his story". Having a chance to be heard was important to him as he felt he had been denied this opportunity through every other legal process he had encountered. Correspondence was sent to the Tribunal explaining that John desired the hearing for therapeutic reasons and to feel that finally, he had been heard and the impact of the crimes upon him had been recognised. He finally was to get his "day in court" which meant more to him than the monetary award he had been offered.

John's case illustrates the strength of our current judicial system in providing an avenue for emotional healing that could not be equaled by an impersonal, administrative process.

Question 9: What legal service delivery approaches or models should the pilot explore as a priority?

The pilot model should explore the use of multi-disciplinary models. As noted above, the model should involve a team of an onsite lawyer and social worker at a community legal service, who can provide a place-based service to victim survivors. A place-based service not only allows for information to be shared within one organization, but it provides clients with the ability to connect with their support team in person, rather than over a telephone which deprives connection and interaction.

SMLS also has a *Sporting Change* program, which is a preventative community development program that contributes to young people engaging constructively in the community. The project integrates sports activities and legal education, that engages risk and vulnerable young people through integrating legal education through sport-based engagement strategies. The project employs a lawyer who provides free legal advice and assistance to secondary students, and a social worker who informs students on their legal rights and responsibilities and fostering social change along the way. This integrated approach has provided young people with increased access to justice, and a greater ability to identify their legal issues, and greater confidence in engaging with their community. Our experiences with place-based, integrated services have been profound.

In 2018-2019:

- 80% of participants of *Sporting Change* have increased knowledge of their rights and responsibilities
- 85% stated that *Sporting Change* helps them feel more able to engage in the community, and
- 100% reported that the sports link helped them understand legal topics better.

Furthermore, the legal services delivery approach needs to consider relationships that can be built within the community to reach cohorts that mainstream services may otherwise miss, or capture clients that may otherwise not be able to self-advocate. For example, SMLS provides *Mother's Legal Help*, a health justice initiative that aligns lawyers with maternal child health clinics in the southeast of Melbourne. This partnership allows maternal child health nurses to refer their patients to SMLS for any legal issues they disclose. We have historically seen that these clients would otherwise lack the capacity or confidence to voluntarily contact a legal service, with their cases otherwise 'falling through the gaps' and usually involving quite significant legal issues. The legal service delivery model should therefore consider partnerships within the community to facilitate access to justice.

CASE STUDY:

Nancy was referred to SMLS through our Mother's Legal Help partnership. Nancy came to Australia as a refugee, a single mother of three young children. One of the children was born with a rare medical condition. Nancy's former de-facto partner and father of the three children, Bill*, had perpetrated extreme family violence against Nancy for many years. Nancy and Bill had also been homeless for approximately ten years, so when Nancy ended the relationship, she was living in crisis accommodation with her children. Nancy and the children's identification documents were destroyed by Bill, so Nancy could not enrol her children in school. Nancy was in significant debt as Bill fraudulently took loans out in her name, and also had criminal matters before the courts as a result of traffic offences including driving with an expired license. Nancy had no support in Victoria.*

SMLS's family lawyers assisted Nancy in obtaining an Intervention Order, as well as advising Nancy that she could apply for Sole Parental Responsibility for her three children. Nancy was also referred to our ISSA lawyer, to assist with a VOCAT application to seek compensation for Nancy being a victim of significant family violence perpetrated by Bill. SMLS's lawyers were also able to represent Nancy in court for her upcoming criminal hearing regarding her traffic offences.

Nancy was also referred to SMLS's social work team, who linked her with a financial counsellor for her debts, as well as providing her with family violence support services, connecting her with a network of mothers for social support, assisting with Centrelink forms so Nancy can obtain a Carer's benefit, and obtaining new copies of her citizenship certificate and children's birth certificates so they could be enrolled in school.

Question10: What legal services gaps and barriers should the pilot prioritise addressing?

As mentioned above, we recommend prioritizing investment in enabling legal services to have in-house social work, financial counselling, youth work and other social services support.

We highlight recommend that the legal service prioritizes offering ongoing casework and not be limited to telephone advice. We see many of our clients are unable to self-advocate or afford private legal representation. Many of our clients are intimidated or untrusting of the police and court system and hesitant to come forward, so there needs to be a generally more supportive environment to encourage reporting, as well as greater research into what barriers exist for culturally and linguistically diverse and LGBTQIA+ victim survivors and how they can be overcome.

The pilot also needs to address that victim survivors' needs are not directly correlated with the type of crime they have experienced, and sentencing is not always the priority. For many of our clients, having the opportunity to tell their story is therapeutic and fundamental to their healing, and it is important the pilot provides a space for victim survivors to feel heard.

We consider generalist services are well placed to be responsive to the diverse range of legal and social needs that may be difficult to prescribe in advance. Accordingly, we consider ongoing work would be needed to identify the continually evolving legal needs of clients.

Question 11: How should we measure the success and impact of the legal service pilot?

There needs to be resourcing and capacity for robust monitoring and evaluation, and ongoing research. SMLS has a long history of robust monitoring and evaluation practices that focuses on both qualitative and quantitative data collection, which ensures we capture the client's experiences, which is fundamental to measuring the success of the pilot.

Question 12: Any other issues that should be considered in the development of the legal services pilot?

In developing a legal services pilot, there needs to be an end-to-end service that serves as a 'one-stop-shop' for victim survivors. One service should be able to provide advice and support in multiple areas of law alongside non-legal support. Legal services should ideally cater to multiple areas of law, so clients are not sent between different services and having to repeat their story. Services should be equipped to provide advice and ongoing support where appropriate, rather than simply provide procedural advice and move a client on. For instance, SMLS has strong connections between our practice fields, so clients can access generalist law, family law and migration support within the one organization, whilst also having access to a social worker. The multi-disciplinary model facilitates a continuity of service that follows a client's journey and legal needs from start to finish.

Further, this service must be place-based, in highly populated areas with demand for such a service. Services like SMLS would be appropriate for this pilot considering our two locations in the southeast of Melbourne, including within the City of Casey as the most populated municipality in Victoria, with high demand for legal services. Phone lines remove a level of connection between the client and their support which is fundamental to trauma-informed service.