



**Submission to the  
Review of NSW's Victims Compensation Scheme**

**30 April 2012**

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## **About Kingsford Legal Centre (KLC)**

KLC is a community legal centre which has been providing legal advice and advocacy to people in need of legal assistance in the Randwick and Botany Local Government Areas since 1981. KLC provides general advice on a wide range of legal issues and undertakes casework for many clients who, without our assistance, would be unable to afford a lawyer. In 2011 KLC provided 1818 legal advices and opened 388 new cases. KLC also has a specialist employment law service, a specialist discrimination law service (NSW wide) and an Aboriginal Access Program. In addition to this work, KLC also undertakes law reform and policy work in areas where the operation and effectiveness of the law could be improved.

## **Summary of Recommendations**

1. We recommend that sufficient resources be dedicated to the Victims Compensation Tribunal in order to enable claims to be determined within 12 months.
2. We recommend the continuation of a Victims Compensation Scheme which can adequately legally recognise, violence which women have experienced.
3. We recommend that victims of multiple acts of violence by the same perpetrator should be compensated at a higher level and the impact of this violence appropriately recognised.
4. We recommend that the 2011 amendments to the Act should be reversed to enable victims to claim for previous acts of violence and injuries, and that claims can be lodged and assessed as the victim decides.
5. We recommend that fees to solicitors should be increased in order to ensure proper levels of representation by the private profession.
6. We recommend that the expertise and value for money community legal centres provide to the scheme should be recognised, and the scheme should consider how community legal centres can be supported to continue this work.
7. We recommend that the scheme continue to make lump sum payments of compensation to victims.
8. We recommend that there should be judicial discretion as to whether to impose the levy on convicted offenders.
9. We recommend the continued use of restitution proceedings against convicted offenders as a means of ensuring additional responsibility by convicted offenders.
10. We recommend that the presumption in favour of extending the time limit for accepting claims for compensation in domestic violence and sexual assault be retained.
11. We do not support a 20 year time cut off for claims of compensation.

12. We recommend the retention of \$7,500 as a threshold for claiming under the scheme.
13. We recommend the continued use of a schedule of injuries but with increased amounts of compensation for each injury.
14. We recommend that there should be better recognition of psychological conditions in the schedule, and that the current threshold for establishing a psychological injury is too high when compared to physical injuries.
15. We recommend the addition of miscarriage as a specific injury in the schedule.
16. We recommend the continued use of the balance of probabilities as the evidentiary test in deciding a claim for compensation.
17. We recommend additional training for compensation assessors to ensure they use this test and the wide range of evidence that claimants may present.
18. We recommend that lump sum payments should be increased in value.
19. A clearer process should be established for interim urgent payments that also applies for victims in need of assistance with expenses (that they cannot pay up front). These claims should be finalised within 14 days of application.
20. We recommend the scheme continue to pay a fixed fee to a lawyer for preparing a victims compensation application.
21. The NSW Government should meet the current and ongoing funding shortfall to the scheme through general revenue payments. The scope of the scheme should not be reduced as a way of dealing with this shortfall, and the Government should accept that the scheme cannot be self funding.
22. Any changes to the scheme should not operate retrospectively, but should apply only to new applications.

## **KLC's experience in Victims Compensation matters**

Kingsford Legal Centre provides legal advice and representation to our clients in victims compensation matters. Our casework focus is on complex matters, for clients that have experienced domestic violence or sexual assault. In 2011 we gave advice to 54 clients about victims compensation and currently have 16 cases open.

In recent years we have noted several difficulties with the current system which impacts on the efficacy of the system and negatively affects the ability of the scheme to meet the objects of the Act.

In particular our current concerns with the operation of the scheme are as follows:

- **Delay**

The current scheme which operates with an estimated time of 25 months from lodgement to determination negatively impacts on victims and is a disincentive to claiming compensation under the scheme. The length of time before a determination makes it very difficult for individuals to act in their own cases. However, many solicitors are also reluctant to act in matters that take over 2 years for a relatively small amount of money.

Delay in determining claims also significantly impacts on the ability of victims to 'move on with their life' and can prolong feelings of trauma associated with the violence. The length of time a claim can take is a significant disincentive for victims who may wish to try to move on from the violence and feel that a long claims process delays this. Victims may have to continue to re-visit the facts of their cases as additional medical reports have to be sought and submissions written. This means that victims have to discuss, re-discuss and re-discuss what happened to them which has the effect of re-traumatising them. It would be highly preferable that sufficient resources were available in order to ensure a timely, efficient process and decision within 12 months.

**Recommendation:**

**We recommend that sufficient resources be dedicated to the Victims Compensation Tribunal in order to enable claims to be determined within 12 months.**

- **Importance of victims compensation as an area of law which women use for seeking some form of legal recognition of a wrong**

Traditionally women who have been subject to violence have not used the legal system to seek recognition of that wrong to the same degree as men. The levels of women reporting sexual assault is very low, with estimates that only 15 to 30% of women reporting they have been sexually assaulted<sup>1</sup>. Furthermore, more than 80% of sexual offences that are reported to police do not proceed to prosecution<sup>2</sup>. And of those cases that actually reach court, less than 50% of defendants are found guilty<sup>3</sup>. In the area of domestic violence, women have also historically not reported the violence they have experienced. In domestic violence there have been many efforts to increase levels of criminal prosecution. This is slowly starting to change. Currently 87% of victims of domestic violence are women. The offender is charged in 19% of incidents of intimate partner violence reported to police, with charges leading to conviction in 65% of cases<sup>4</sup>. A women's safety survey found that only 6.3% of women assaulted by a current partner informed police about the last incident.<sup>5</sup>

Women who have experienced violence have generally not accessed, or have had their experience, properly recognised and prosecuted in the criminal legal system. This has meant that women have not had a formal way in which the legal system recognises that what happened to them was wrong.

In contrast to this, the victims compensation scheme has been an accessible and important form of legal redress for women who have suffered a wrong. The scheme has provided one means of formally recognising wrongs which women have experienced. We support the scheme continuing and emphasise its significance for women particularly for recognising violence they have experienced.

**Recommendation:**

**We recommend the continuation of a Victims Compensation Scheme which can adequately legally recognise, violence which women have experienced.**

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<sup>1</sup> Australian Bureau of Statistics, Sexual Assault in Australia: A Statistical Overview (2004), 57; Australian Institute of Criminology, Guilty Outcomes in Reported Sexual Assault and Related Offence Incidents (2007).

<sup>2</sup> NSW Bureau of Crime Statistics and Research, 'The attrition of sexual offences from the NSW criminal justice system' Crime and Justice Bulletin No 92, 2006.

<sup>3</sup> Ibid 2

<sup>4</sup> NSW Parliamentary Library Research Service Briefing paper no 7/07

<sup>5</sup> Australian Bureau of Statistics, Women's Safety Survey, 1996 Women's Safety Australia

- **Relatively low rates of compensation, especially for women who are victims of violence**

***'Related acts' and the impact on women- case studies<sup>6</sup>***

*Natalia has been married to Ivan for 25 years. They have 6 children together. Over 25 years Natalia has been the victim of severe domestic violence and sexual assault by Ivan. The violence commenced after the birth of her first child and continued until her last child left home. Over the years Natalia left Ivan many times but also reconciled, especially when he was not drinking and was working. However, the violence continued.*

*Natalia eventually leaves Ivan and comes to KLC for help with some debts. In talking to her we realise she may be eligible for victims compensation. After many conversations with her we are able to identify 2 specific periods of violence and we advise Natalia that she should lodge 2 claims for compensation. We advise her to do this because we can identify clear gaps and changes in the nature of the violence that leads us to believe that the acts are not related. Natalia lodges 2 claims.*

*In 2011 the NSW Government amends the Act and makes it harder to argue that Natalia's acts of violence are unrelated. This means that Natalia has only one claim. This is despite 25 years of serious and ongoing domestic violence.*

**Contrast with:**

*Jim is a student who works and finishes uni late some nights. One night he is attacked by a man on his way home and is taken to hospital. He later comes to KLC and we advise him that he can claim victims compensation. He makes an application.*

*Six months later Jim is at his local pub when a drunk patron attacks him and 'glasses' him in the face. He comes back to KLC for advice about victims compensation, we advise him that he is able to lodge a claim.*

**As a result Jim has 2 successful claims, while Natalia is able to only bring one claim as the violence was from the same perpetrator.**

KLC has been concerned about the increasing unjustness of the scheme in particular for women who have experienced long term domestic violence or sexual assault (whether as an adult or child). The amendments to the Act in 2011 further increased the disparity in the treatment of victims of multiple acts of violence from different perpetrators with that of victims who have experienced multiple acts from the same perpetrator as is often the case in domestic violence and sexual assault. We believe that this results in significantly disparate results in compensation for women, and is in effect a form of discrimination against women.

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<sup>6</sup> All casestudies are based on the experiences of KLC clients but details have been changed to protect client confidentiality.

Women's experience of longstanding, repeated, severe violence from their intimate partners has a severe impact on their self esteem, physical health, ability to manage their lives and general mental health. To capture this in one simple award does not adequately recognise the severity of the injury.

The Act should better recognise that being a victim of long term violence by the same perpetrator is frequently through multiple acts of violence, and that this violence should be recognised within the scheme as requiring higher levels of compensation.

**Recommendation:**

**We recommend that victims of multiple acts of violence by the same perpetrator should be compensated at a higher level and the impact of this violence appropriately recognised.**

- **Increasing complexity in the law, less access to legal services**

For people who have experienced violence, especially domestic violence or sexual assault, the scheme is legally complex and difficult to navigate without expert advice. Amendments in 2011 that were retrospective and that further reduced the ability to claim for injuries arising from multiple acts of violence as well as requiring a claimant to lodge claims chronologically increased the inaccessibility of the law for people without legal representation. This was especially the case for people who have been victims of long term violence.

Since the reduction in the payment of fees to solicitors under the 2011 amendments, KLC has noticed a significant drop in the number of legal practices undertaking victims compensation matters and increased pressure on our service both in terms of legal advice and representation.

Since 2001 KLC has doubled the amount of victims compensation cases we have acted for clients in. KLC has increased its representation of clients by 67% since 2010.

KLC provided advice to 67% more clients in 2010 and since 2001 the number of victims compensation advices to clients has increased by 64%.

KLC remains concerned that there is a lack of access to legal services for victims in complex matters and that this burden is increasingly falling to community legal centres that cannot meet the demand for legal assistance in this area.

**Recommendations:**

**We recommend that the 2011 amendments to the Act should be reversed to enable victims to claim for previous acts of violence and injuries, and that claims can be lodged and assessed as the victim decides;**

**We recommend that fees to solicitors should be increased in order to ensure proper levels of representation by the private profession;**

**We recommend that the expertise and value for money community legal centres provide to the scheme should be recognised, and the scheme should consider how community legal centres can be supported to continue this work.**



## Comments on the Scheme

### Purpose of the Scheme

KLC supports the retention of both a rehabilitation and compensation focus, and in particular notes that for our clients the receipt of compensation can have a rehabilitative function. We do not support any shift toward a model which only provides in-kind support through counselling and expenses claims as the payment of compensation for our clients is in fact often critical to the recognition of the injury and assists them in a practical way to overcome the impact of long term violence in their life.

#### **Wen**

*Wen formed a relationship with Stephen. After they had been going out for about 6 months, Stephen moved into Wen's flat. Wen became pregnant with twins shortly after. Stephen regularly abused alcohol and marijuana. He began to make threats of violence to Wen. Wen decided that she did not want to live with him any longer, and kicked him out.*

*Stephen contacted Wen again about 3 years later, when the twins were toddlers. He said that he had changed, and wanted to be with his family, so Wen allowed him to move back in with her. Unfortunately he hadn't changed, and his threats of violence culminated in a physical assault, which left Wen with a black eye, bruises on her arms and other injuries. Stephen disappeared and was never caught by the Police. Wen became frightened that he would find her and her children again, so moved to a country town where she felt safer.*

*KLC helped Wen to claim victims compensation in the category of domestic violence. The claim took 28 months to be processed, and Wen was eventually awarded \$8,500. This payment has made a huge difference in her life. She has used the money to have driving lessons, get her licence and buy a second hand car. This has allowed her to work more shifts at her casual job and drive her children to school and to their activities. It has given her more independence. It has also given her closure after the assault, as Stephen was never brought to trial.*

#### **Recommendation:**

**We recommend that the scheme continue to make lump sum payments of compensation to victims.**

## **Levy and Restitution**

We support the role of a levy on convicted offenders, but we note that this levy is now imposed on many non-violent offences. We believe that there should be judicial discretion as to whether this levy be imposed for people experiencing financial hardship, but in general we support the retention of the levy.

KLC supports the continued role of restitution as a way of holding convicted offenders responsible for any compensation payouts. We note that in some cases the future possibility of restitution proceedings can be a disincentive to victims and in some cases victims do not proceed with claims on this basis. Of paramount concern to women in relation to the possibility of restitution proceedings is ensuring that any proceedings do not compromise their safety.

We support the continuation of restitution but note that many convicted offenders who have spent time in prison are often in a position of having limited financial resources and that the scheme cannot rely on restitution as an effective funding mechanism and that further funds from Treasury are required for the scheme's long term financial viability. However, we believe that the concept of accountability for criminal offences which cause injury should be retained in its current form through restitution.

### **Recommendation:**

**We recommend that there should be judicial discretion as to whether to impose the levy on convicted offenders.**

**We recommend the continued use of restitution proceedings against convicted offenders as a means of ensuring additional responsibility by convicted offenders.**

## **Limitation Periods**

KLC supports the retention of a 2 year limitation period for claims to be brought, with extension of time provisions.

**Darlene**

*Darlene was in a very violent relationship with her husband. They had a child together and the child was often a witness to the violence. When Darlene would try and escape the violence her husband would track her down and frequently kidnapped her son.*

*As a result the Police were involved and there were numerous criminal charges against her husband as well as AVO proceedings. Darlene had to attend Court many times as a witness which was very stressful. Darlene was also involved in Family Court proceedings concerning her son. On top of this she was trying to keep her son safe and lived in constant fear of her husband finding out where they lived.*

*Because of all these things going on in her life Darlene could not deal with a victims compensation claim within the 2 year period. She already had to deal with both criminal and family law proceedings and was still dealing with the trauma of the violence she experienced. She was also caring for her young child who was also traumatised by the violence. Without an extension of time Darlene could not have lodged a victims compensation claim.*

We strongly recommend that the presumption of leave to apply out of time should be retained for victims of domestic violence, sexual assault and child sexual abuse. Due to the ongoing and long lasting impact of sexual assault and domestic violence, many victims are unable to prioritise seeking legal help or making a claim for victims compensation within the 2 years following an act of violence. They may be focussed on finding new housing, finding new schools for their children and making a new life for themselves, as well as participating in criminal law proceedings as witnesses and pursuing family law proceedings. It is therefore essential that there be a presumption in favour of extending the time limit for claiming compensation in domestic violence and sexual assault.

We do not support a statutory limit on claims older than 20 years old, although we recognise that there may be evidentiary difficulties with these claims. We note that it is not uncommon for the Police to bring prosecutions, particularly in child sexual assault matters, more than 20 years after the offence and we believe that the Act should not arbitrarily rule out claims after a certain date. Some of our clients have been the victims of child sexual abuse beyond 20 years. As research demonstrates, it is not uncommon for people to come forward in their 40s and 50s, when they finally feel able to talk about their childhood experiences. It is important for victims compensation law to recognise these wrongs through the payment of compensation.

### **Arietta**

*Arietta was repeatedly sexually assaulted by her uncle when she was 6 and 7 years old. The assaults happened in the family home, and increased in their severity as they went on. She did not disclose the assaults to anyone due to her age and because her uncle warned her not to. She was also embarrassed and ashamed to tell her family about what was happening. The assaults eventually stopped as her family moved to another part of Sydney.*

*Arietta ran into her uncle again for the first time in almost twenty years when she was in her twenties. This brought back all of the memories of the assault in an intensified way, as she was now a mother of a young daughter. She could not bear the memories any longer, and disclosed the assaults first to female family members, and later to a sexual assault counsellor and to the police. The police charged her uncle with multiple counts of sexual assault, and he was found guilty and sentenced to over 10 years imprisonment. The police investigation and court processes, including appeals, took almost 2 years to be finalised.*

*Arietta sought assistance to claim victims compensation after the court process was over, and made a claim more than twenty years after the assaults finished. She was not able to face the emotional, psychological and legal consequences of disclosing the assaults until she was well into her twenties, and given the gravity of the assaults and the young age at which she became a victim, she should not be penalised for this by having a "maximum" period of time imposed on making claims for victims compensation*

### **Recommendations:**

**We recommend that the presumption in favour of extending the time limit for accepting claims for compensation in domestic violence and sexual assault be retained.**

**We do not support a 20 year time cut off for claims of compensation.**

### **Threshold for injuries**

KLC supports the retention of the current threshold of \$7,500 but recommends that the values in the schedule need to be reassessed as the figures for significant injuries remain very low and do not accurately reflect community attitudes as to what appropriate compensation should be for such an injury. They have not been increased substantially in the years of operation of the scheme and are therefore out of date.

While the schedule can appear a rather cold and clinical approach to injuries, we support its continued use. It enables some certainty in amounts which will be awarded to victims.

There should be some scope to assess the individual impact on a victim of a particular injury. For example, for a sports player to have lost the use of an arm will be a more severe impact. We recommend that there should be better recognition of psychological conditions in

the schedule, and believe that the threshold for establishing a psychological injury is too high when compared to physical injuries.

KLC also supports the inclusion of 'miscarriage' as a specific injury in the schedule.

***Recognising miscarriage as a specific injury:***

*Maree was a relationship with Tim for two years. From the beginning, Tim was violent towards her. After Tim broke Maree's nose for the second time Maree called the Police and they helped Maree to get an AVO. After that Tim started being nice to Maree. She let him stay with her but he soon became violent again. When Maree finally escaped she called the Police and Tim was arrested. Maree found out she was pregnant. A month later Tim called her. He was very sweet and Maree thought this time he might be different, he was also the father of her baby, so they started seeing each other again. One night, during a fight Tim punched Maree and she fell. Tim was arrested again and this time Maree decided that they were really over. A week later Maree had a miscarriage. She was devastated.*

*Almost two years later Maree is still distraught about the miscarriage. Maree has become very depressed about what happened with Tim and also over losing the baby. A lawyer at KLC gives Maree advice about victims compensation. The lawyer tells her that she could claim for domestic violence or for some of her individual injuries. They tell her that a miscarriage is not one of the injuries listed in schedule but that it could be included in her claim for domestic violence. Maree cries when she hears this, she feels as though nobody cares about her lost baby.*

**Recommendations:**

**We recommend the retention of \$7500 as a threshold for claiming under the scheme.**

**We recommend the continued use of a schedule of injuries but with increased amounts of compensation for each injury.**

**We recommend that there should be better recognition of psychological conditions in the schedule, and that the threshold for establishing a psychological injury is too high when compared to physical injuries.**

**We recommend the addition of miscarriage as a specific injury in the schedule.**

**Evidence**

KLC supports the retention of the current legal test that the claimant must establish on the balance of probabilities that an act of violence has occurred and that an injury has happened. We do not support a prescriptive approach as to how this evidentiary standard might be met and support the ability of a victim to lodge any available evidence that may establish the claim.

We do not support the requirement of mandatory forms of evidence, such as a Police report in order for a claim to succeed. For our clients there may be many compelling reasons why the violence was not reported to the Police, including fear of the perpetrator, fear of intervention of community services in relation to children, or a lack of trust in the Police response based on previous experiences.

Instead a claimant should be able to bring all available evidence to establish the violence and injury and should not be precluded from doing so in the absence of a Police report.

We also note that due to the differing standard of balance of probabilities that a conviction should not be required in order to succeed with a claim. However, we have noted in recent times that many cases have failed in the absence of a conviction and we have been concerned at the extent to which the Tribunal relies heavily on the findings in criminal proceedings, when in fact the test is significantly different.

**Recommendations:**

**We recommend the continued use of the balance of probabilities as the evidentiary test in deciding a claim for compensation.**

**We recommend additional training for compensation assessors to ensure they use this test and the wide range of evidence that claimants may present.**

**Compensation**

The aim and purpose of compensation for clients depends on different factors for each one. For some clients it is a tangible recognition of their experience of violence, for others it is rehabilitative, and for other clients it acts as a form of restitution. For all our clients, compensation plays a very practical role in helping them recover from the long term financial disadvantages they face as victims of violence.

### **Impact of Compensation**

*Sadaf is an Iranian woman. She moved to Australia with her husband just twenty days after she was married. Once they arrive in Australia Sadaf's husband becomes abusive. He yells at her, pushes her around and forces her to have sex with him when she doesn't want to. When he leaves the house he takes the cables for the internet, phone and TV so she can't use them. Sadaf has very few friends and no family in Australia and doesn't know what to do. She isn't covered by Medicare and her husband only gives her a tiny allowance so she can't afford to go to the doctor when her husband hurts her.*

*One day, after they have a fight, her husband throws her out of the house. He tells her he has called 'immigration' and told them that she is no longer his wife. He says that she will have to leave the country as her visa is dependent on him. Sadaf is distraught. She has nowhere to go, no money and none of her belongings. She goes to a refuge. Because of her visa she does not qualify for any social security benefits. She cannot return to Iran as her family have threatened to kill her for leaving her husband. Although she speaks English well, and in Iran was qualified as an architect, in Australia she can only get a job paying minimum wage.*

*Sadaf stays in refuges for over a year. Eventually, with help from a social worker she is put in priority housing. She still has very little money or belongings. She can no longer contact her family and feels very alone. She is referred to KLC by her caseworker. When KLC advises that she might be eligible for victims compensation she says that, with the extra money, she will be able to buy some furniture and new clothes. She feels as though being able to get her life back together will help her to regain confidence; she hopes she will be able to work as an architect again here in Australia.*

### **Sarah**

*Sarah married John in India. Sarah moved to Australia to live with her new husband. Shortly afterwards, John became abusive towards Sarah. He forced her to sleep with him and threatened her on many occasions. Sarah eventually worked up the courage to leave John. She also contacted the police but refused to press charges due to fear she would be punished by her family and John's family.*

*A few years later, Sarah's uncle found her in Australia and threatened her with a knife, demanding she return to India with him. Sarah was scared and ran away. She has been ostracised from her community for leaving her abusive relationship with John and is experiencing cultural isolation. As a result of the violence and isolation, Sarah suffers from severe depression and other psychological problems. This has prevented her from studying and working in Australia. She needs support to rebuild her life.*

As our clients are predominantly women who have experienced long term domestic violence (including sexual violence), they often continue to experience significant financial disadvantage as a result of escaping that violence. Compensation when it comes provides many clients with a small financial buffer which can pay off debts associated with moving away from violence and can provide some small amount of financial security as they rebuild their lives. For some, it may enable them to buy a second hand car which gives them

independence and autonomy, for others it may allow them to pay for fees at a TAFE college to enable them to retrain and start their lives afresh.

The aim of compensation should be to recognise the experience of the victim and attempt to provide redress for the impact violence has had on their life.

We strongly support the retention of lump sum payments of compensation but note the generally low amounts awarded for long term victims of domestic violence that needs urgent reconsideration under the scheme. These relatively low amounts and the long process for determination can diminish the value of compensation in the eyes of victims.

**Recommendations:**

**We recommend the retention of lump sum payments of compensation.**

**We recommend that lump sum payments should be increased in value.**

**We recommend that victims of multiple acts of violence by the same perpetrator should be compensated at a higher level and the impact of this violence appropriately recognised.**

**Expenses payments**

We support a wide definition of expenses under the fund including:

- medical and dental expenses;
- relocation expenses, costs to repair of the home or extra security measures;
- loss of earnings;
- replacement of property.

However, we are aware that some clients delay medical and especially dental treatment because they cannot afford to meet the expenses costs upfront.



### ***Inability of pay for dental treatment***

*Lei has recently left a long term violent relationship. She has limited access to money and is trying to support her 3 children. As a result of the violence she has severe problems with her teeth. Her dentist has told her that it will cost several thousands of dollars to repair. Lei can no longer can afford private health insurance and has not had the dental work done because she cannot afford it. Her missing and broken teeth are also impacting on her ability to get a job as her appearance is affected.*

*She is not able to make an expenses claim as she has not paid for the work to be done, she can only make an urgent payment request. Lei is worried that this process is a lot of paperwork and is not sure she wants to proceed.*

### **Interim payments for hardship**

KLC supports the retention of access to interim payments on the basis of hardship, but notes that the need for interim payments could be reduced if all claims were dealt with in a timelier manner.

KLC believes that there needs to be clearer guidance for victims on how to make these claims and it would be easier if there was a clearer claims process for urgent payments. KLC recommends that there be a separate form for urgent interim payments that also clearly directs people to use this process when they cannot afford to pay for urgent medical treatment or other needs.

### **Recommendation:**

**A clearer process should be established for interim urgent payments that also applies for victims in need of assistance with expenses (that they cannot pay upfront). These claims should be finalised within 14 days of application.**

## **Overall funding of the Scheme**

KLC notes the comments in the Discussion paper about the ongoing financial viability of the scheme. It is KLC's view that the scheme will never be self funding, as restitution and levy payments will never meet the scheme's requirements.

In light of this economic reality, the only real option is for the Government to continue to commit to the funding of the scheme from general revenue. We believe that this is the only appropriate funding option and should reflect the Government's obligations to victims of crime and to ensure that victims of violent crime are given some assistance by the state in getting their lives together. Making compensation available to victims also potentially saves the State in other ways by increasing the ability of victims to rebuild their lives with the assistance of a compensation payment.

The scheme, with its focus on compensation can be an effective way of providing support and assistance to victims in conjunction with prosecuting violent crime. We believe that an increased focus on resolving claims sooner as well as better recognising domestic violence and sexual assault would increase the overall effectiveness and fairness of the scheme for victims of violence, and in particular women.

### **Recommendations:**

**The NSW Government should meet the current and ongoing funding shortfall to the scheme through general revenue payments. The scope of the scheme should not be reduced as a way of dealing with this shortfall, and the Government should accept that the scheme cannot be self funding.**

**Any changes to the scheme should not operate retrospectively, but should apply only to new applications.**

**Kingsford Legal Centre**

**30 April 2012**