



14th February 2022

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To Whom it May Concern,

Re: Crimes and Other Legislation Amendment (Strengthening the Criminal Justice Response to Sexual Violence and Other Measures) Bill 2022.

We refer to the Department's request seeking submissions in response to the aforementioned bill. IFYS commends the Commonwealth Government on their commitment to enacting legislation to enhance the protection of victims and survivors, especially children and young people.

You may be aware, IFYS had its inception as a youth shelter on the Sunshine Coast over 40 years ago. Much of the focus of its work in the early days was aimed at addressing what was referred to at the time as 'opportunistic prostitution'. In the early 1990's the organisation was one of only 5 agencies state-wide funded to provide detached outreach services to young people at risk across the Sunshine Coast region.

Today IFYS has a service footprint that covers from the Gold Coast in the South to the far North of Queensland as well as involvement in a number of national initiatives aimed at addressing child sexual abuse and exploitation. The organisation delivers a range of specialist support and intervention programmes for children, young people and families.

Our vision is a national community that acknowledges, understands and values childhood by committing to the protection of children and young people through collaboration, advocacy and support. Nationally, through our Project Paradigm Programme, we are focusing on prevention and intervention for children and young people at risk of or experiencing child exploitation by:

1. Building the capacity of frontline professionals and communities to be able to identify and respond appropriately to child exploitation through the development and provision of training and resources.
2. Contributing to the broader community of practice through research and advocacy activities.
3. Collaborating with stakeholders to achieve best outcomes for children and young people at risk of or experiencing child exploitation.

IFYS strongly supports any legislative reforms that better protect vulnerable victims and survivors of sexual violence, especially children and young people. It is through our extensive experience, that we offer the following comments in relation to the proposed amendments:

Expanding the vulnerable witness classification.

IFYS is very supportive of the proposed amendments ensuring adult complainants in child sexual abuse offences are automatically deemed vulnerable witnesses and afforded access to proposed vulnerable witness protections as well as the expansion of protections to a broader range of criminal proceedings. IFYS believes that such a move is consistent with both findings from the Royal Commission into Institutional Responses to Child Sexual Abuse and its own experiences when working with historic survivors of child sexual abuse.

Research clearly demonstrates that the trauma suffered by survivors of child sexual abuse goes way beyond the immediate timeframe within which the abuse occurs, often creating long lasting and debilitating effects that make the victim/survivor more vulnerable (Christie, 2018). Health impacts from child sexual abuse on adult survivors can, and often do, include a range of conditions ranging from post-traumatic stress disorder (PTSD), depression and flashbacks, to eating disorders, self-harm and suicide ideation. Research also demonstrates that up to 71% of individuals diagnosed with borderline personality disorder have reported suffering sexual abuse as children further highlighting the long-term impact of such abuse (Zanarini, 2000).

In addition to these noted impacts, dissociative identity disorder is being increasingly recognised in adults as a direct consequence of childhood trauma, especially where child sexual abuse has occurred (Salter et al, 2017). The severity of this disorder can vary dramatically, with individuals experiencing low level symptoms, such as day dreaming, or more extreme symptoms of complex dissociation that impact on the individual's ability to function on a daily basis, such as the inability to get out of bed in the morning due to severe anxiety.

The proposed amendments to the legislation will go some way towards recognising the complex and at times re-traumatising experience for victims and survivors journeying through the judicial system.

Restricting the admissibility of sexual reputation/experience in certain vulnerable adult proceedings.

It is pleasing to note that evidence of sexual experience or reputation of all survivors of child sexual abuse – including adults – will no longer be admissible without relevant scrutiny. However, we would raise concern at how and by whom the threshold for what is considered “substantially relevant” will be calibrated and determined.

IFYS has worked with many victims and survivors of sexual violence, both children and adults. In our experience it is not uncommon for perpetrators of the abuse to use past histories of sexual abuse or sexual activity as a means of discrediting victims and witnesses, especially when there may have been an intimate partner relationship in existence prior to an allegation, or where a victim under 16 years of age seemingly consented to the abuse. In a professional capacity, we have also observed perpetrators using the opportunity to expose such past histories in court proceedings as a means of emotionally abusing and controlling a victim further.

It is for these reasons that IFYS would like to see, and strongly recommend, that the legislative amendments to the Bill include a requirement for members of the judiciary who preside over court proceedings involving cases of sexual abuse and assault to receive appropriate training, provided by specialists, that builds their capacity to understand the complex issue of child sexual abuse. This is particularly relevant when dealing with cases of child sexual exploitation (CSE).

IFYS has regularly observed a significant lack of understanding across professional domains – including the justice system – when the issue of CSE is present. The complex power dynamics of coercive control and manipulation

that exist within this form of abuse are frequently misunderstood by professionals, causing it to remain hidden or wrongly categorised as another form of abuse. A major causal factor for this is the lack of a nationally consistent definition for what actually constitutes child sexual exploitation. A point highlighted in Recommendation 12.15 of the Royal Commission into Institutional Responses to Child Sexual Abuse. The Commonwealth Government, through the proposed amendments, has the opportunity to establish such a definition in its glossary of terms.

Consistent with the position of the Australian National Strategic Partnership on CSE, IFYS recommends that the Commonwealth Government adopts the UK definition for CSE:

“Child sexual exploitation is a form of child sexual abuse. It occurs where an individual or group takes advantage of an imbalance in power to coerce, manipulate or deceive a child or young person under the age of 18 into sexual activity:

- (a) in exchange for something the victim needs or wants, and/or
- (b) the financial advantage or increased status of the perpetrator or facilitator.

The victim may have been sexually exploited even if the sexual activity appears consensual. Child sexual exploitation does not always involve physical contact; it can also occur through the use of technology.”
(UK Government, 2017)

Providing a clear definition will support jurisdictions across Australia to act consistently and proportionately in their application of the law to ensure justice is achieved.

Allowing pre-recording of evidence and requiring recording of evidence and allowing recorded evidence to be tendered in subsequent trials and retrials.

IFYS supports any intervention that potentially reduces the trauma experienced by vulnerable court users. For children who are victims of sexual abuse, the trauma suffered as a result of both disclosing the abuse and giving evidence for court proceedings can be significant. Research indicates that for children who testify multiple times the long-term impact on mental and physical health can be profound, affecting them well into adult life (Hobbs & Goodman, 2018).

The submission of pre-recorded evidence at trial has been in existence in Queensland since 2003. The initial police interview (ICARE 93A) of a child will normally be played during court proceedings to minimise the number of times a child or young person is required to testify or give evidence. The prosecution in such cases will usually consider the ICARE interview to be their evidence in chief. As such, cross examination will generally remain short and tends to be focussed on clarifying points of issues contained within the child’s original statement to police.

Since 2003, Queensland legislation no longer requires an individual classed as a vulnerable witness to be present at committal hearings as a means of further reducing potential trauma.

Introducing Ground Rules Hearings.

IFYS believes that a ‘one size fits all’ approach does not support victims properly and can actually have a detrimental effect on their long-term well-being by causing further trauma. IFYS strongly supports the ability for courts to make or vary directions to ensure proceedings operate in a way that recognises and acknowledges the individual circumstances and complexities present in cases of sexual abuse and assault, thereby ensuring every effort is made for victims and survivors to be supported in having a voice.

However, as previously noted, IFYS believes that relevant specialist training should be required for members of the judiciary who preside over such hearings to ensure that there is a comprehensive understanding of the complexities relating to sexual violence and complex trauma.

Allowing victim-survivors to publish identifying material.

IFYS strongly supports any amendment to the current legislation that enables victims and survivors of sexual abuse to have control over their own information, including the ability to tell their story. Whether through media or publication, the ability to express their experience and feelings is widely accepted by the professional therapeutic community as being of significant benefit to the trauma healing process. It is the opinion of IFYS, that to deny this basic human right and instead punish victims for speaking out – as has historically been the case in some Australian jurisdictions (Zivcic, 2020) – perpetuates the abuse already suffered and, in many cases can have a detrimental long-term effect on the mental health of the victim.

Additional matters for consideration.

Research in Australia draws attention to the fact that both child sexual abuse and adult sexual assault is significantly under reported to authorities. The Royal Commission highlighted this fact noting that the average time for disclosure was 23.9 years (Royal Commission, 2017). However, it is worth noting that in many cases where a disclosure has been made, the victim is either not believed or the evidence base does not meet the threshold for pursuit through the criminal courts (Tucci & Mitchell, 2021). Such cases might meet the threshold for civil proceedings. IFYS believes there is a significant incongruence between the civil and criminal courts in matters relating to family custody and domestic violence cases that often involve accounts of alleged child sexual abuse or adult sexual assault. It is our experience that these factors are readily dismissed as irrelevant during proceedings because they are unsubstantiated by law enforcement agencies, often because victims withdraw allegations out of fear for repercussion, even if they have been substantiated by other government agencies. IFYS strongly believes that the Commonwealth Government needs to review how the two court systems currently operate in parallel with one another and introduce mechanisms for addressing the complex issue of sexual violence when present in civil proceedings.

In closing, IFYS is extremely grateful to be given the opportunity to provide feedback on this important issue. Should your staff require clarification or further information on any of the issues raised, please do not hesitate to contact me on telephone 0449 547 577 or email ctownson@projectparadigm.com.au.

Thank you for the opportunity to provide comment on this valuable piece of legislation. We trust our input has been of value.

Yours sincerely,



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