



## BPW Australia

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# BPW Australia's Submission to the Australian Law Reform Commission's Inquiry into Justice Responses to Sexual Violence

## BPW Australia is bringing our voice to support Fair Agenda's stance in their campaigns to the Australian Law Reform Commission's Inquiry into Justice Responses to Sexual Violence

BPW Australia also has a vision of **a justice system that supports victim survivors, prioritises their wellbeing, and fosters a trauma-informed approach.**

As the ALRC process continues to evolve, Fair Agenda is campaigning to:

1. **Expanding access to forensic medical examinations**, eliminating barriers that hinder victim-survivors from gathering evidence and receiving timely care after they have been sexually assaulted.
2. Advocate for legislative changes that **enable victim-survivors to pre-record their testimony**, thereby reducing the trauma associated with courtroom proceedings.
3. **Secure proper funding for specialist sexual assault and trauma counselling services**, recognising the pivotal role these services play in the recovery of victim-survivors and ensuring their accessibility to all in need.

## What we're campaigning for:

### Campaign 1: Removing barriers to accessing forensic medical examinations

#### Background:

If a victim-survivor seeks help immediately after a sexual assault, often the first service they will seek is a forensic medical exam, which are comprehensive medical assessments conducted by specially trained professionals.

These examinations are crucial for victim-survivors as they provide thorough documentation of injuries, collect forensic evidence, and offer essential medical care.

Shockingly, in many parts of the country, this critical service cannot be accessed locally or in a timely manner. What that means for victim-survivors is they may be forced to wait for hours, or drive for hours to find a qualified professional. In the meantime, to preserve that potential forensic evidence, they will likely be told it's best not to drink, shower, go to the toilet, or change out of the clothes they were assaulted in.

Every survivor deserves to receive prompt and comprehensive medical care, regardless of where they live or their circumstances. We're campaigning for expanded access to forensic medical examinations, to ensure that the immediate response to sexual violence is compassionate, efficient, and accessible for all victim-survivors.

**BPW Australia** urges the ALRC to address the critical issue of accessibility to forensic medical examinations for victim-survivors of sexual assault. The current system presents significant barriers, including geographic distance and limited availability of qualified professionals. It is imperative that all victim-survivors have timely access to these examinations, as they are crucial for comprehensive documentation of injuries, collection of forensic evidence, and provision of essential medical care. Our system should not be causing re-traumatisation to victim-survivors.

**Recommendations to ALRC: BPW Australia** recommends that state, territory and federal governments improve the accessibility and availability of forensic medical examinations across the country. This includes ensuring there are more trained staff available, gender appropriate staff, more locations to access forensic medical examinations (particularly for rural and regional areas) as well as removing any need to report to the police before being able to access an exam.

**Relevant question from ARLC template this relates to:** Question 4

## **Campaign 2: Supporting victim-survivors to pre-record their testimony**

### **Background:**

Survivors consistently report providing evidence in court and cross-examination as the most confronting aspects of the justice system.

Giving evidence requires a victim-survivor to retell some of the most traumatic moments of their lives; they are then questioned on the details, often subjected to intense scrutiny, scepticism, and invasive questioning aimed at undermining their credibility and integrity. Often victim-survivors are required to give their evidence in a public courtroom, in front of a judge, jury, the general public and sometimes with the person who perpetrated violence against them present. This experience can be profoundly retraumatising.

There is mounting evidence that shows that for many survivors a better option to reduce the risk of re-traumatisation is to pre-record their testimony. This means they can share their stories in a private, secure setting, away from the intimidating atmosphere of a courtroom.

Access to this critical tool varies widely across the country - with laws in NSW, Victoria and WA trailing far behind the rest. Fair Agenda and BPW Australia are campaigning to change that, to ensure no matter where they're navigating the system, they have access to more compassionate and trauma-informed court processes.

**BPW Australia** believes the current means of giving evidence in court proceedings is failing victim-survivors. Current processes are not just deeply traumatic for many, but also do enable victim-survivors to give their best evidence. In some jurisdictions victim-survivors must retell some of the most traumatic moments of their lives in a public courtroom, in front of a judge, jury, the general public and sometimes with the person who perpetrated violence against them present. They are then questioned on the details, often subjected to intense scrutiny, scepticism, and invasive questioning aimed at undermining their credibility and integrity.

**BPW Australia** urges the ALRC to advocate for legislative changes that enable victim-survivors of sexual assault to choose to pre-record their testimony. Pre-recording testimony would reduce a victim-survivors risk of re-traumatisation, allowing them to provide their accounts in a safe and supportive environment.

The states in which access to this critical tool trails far behind the rest are: NSW, Victoria and Western Australia. Tasmania also currently doesn't allow for pre-recording of cross-examination only evidence in chief.

**Recommendations to ALRC:** BPW Australia recommends State and Territory Governments make amendments to the relevant legislation to allow complainants in sexual offence trials and contested hearings to give the entirety of their evidence in the form of a pre-recording. This should be available as a standard protection for complainants granting sexual assault victim-survivors the choice to elect pre-recording if they wish.

**Relevant question from ARLC template this relates to:** Question 15

### **Campaign 3: Securing proper funding of services that support victim-survivors of sexual assault**

#### **Background:**

From the point of disclosures, to navigating legal systems, and recovery - service support can be an important resource for many victim-survivors.

BPW Australia wholeheartedly agrees with Fair Agenda's campaign for governments to properly fund specialist sexual violence services - so that all survivors no matter where they live can get the trauma-informed, culturally safe and accessible support they need to navigate systems and to support their long-term recovery and healing.

**BPW Australia believes Australia must fully invest in resources that support survivors. We agree with professionals working in the area and advocates who are suggesting that proposed areas for investment should include:**

**Specialist sexual assault services, including their trauma counselling work to support healing and recovery:** Right now, these services are consistently underfunded by governments, and do not have the capacity to respond at the scale or speed required, which means victim-survivors who reach out for trauma counselling support are often being placed on months long waitlists to access help.

**Independent sexual violence advisors to provide wrap around support:** In some jurisdictions, an advisor is available to provide emotional and practical support; accurate and

impartial information; and to provide support before, during and after court. This might include practical support (such as liaising with other services), and/or supporting you through the criminal legal system. They might talk to the Prosecutor on your behalf for updates, liaise with police for you, and help you understand what is happening and what will happen next. These might be one of the services offered within a sexual assault service.

**Advice before you begin the legal process:** For some people, advice can be useful before you make a report to police - to help you make an informed decision about how to proceed. For example, someone might need legal advice to understand the impact a report might have on their family law rights, what might happen if child protection gets involved; what impact it might have on a partner visa and their ability to stay in the country. This could be through a legal assistance service, or a sexual assault service.

**Legal representation throughout or at different stages of the legal process:** Legal service support can also be important during the court process, including to challenge any attempts by defence to access a victim-survivor's counselling notes or medical records (i.e. communications privilege).

There is an urgent need for adequate funding of specialist service support for victim-survivors to understand their options and rights; be supported to navigate systems; and to support recovery and healing. Insufficient state and federal government funding results in services not having the capacity to respond at the scale of speed required.

**Recommendations to ALRC:** BPW Australia calls upon the ALRC to make recommendations that ensure sustained and sufficient funding for specialist service support at all stages of the process, thereby ensuring that all survivors no matter where they live can get the trauma-informed, culturally safe and accessible support they need.

**Relevant questions from ARLC template this relates to:** Question 1, 3 and 4

## **Campaign 4: Support the safety of victim-survivors of sexual assault who report the offence**

**Further to the Fair Agenda campaign, BPW Australia** urges the ALRC to advocate for legislative changes that assure the ongoing safety of victim-survivors of sexual assault by removing any assumption that bail will be granted in all cases of sexual assault, whether considered to be violent or not.

The risk of the offender threatening to further harm the victim if she reports the assault once he is released on bail is an impediment to the victim reporting.

*BPW Australia is affiliated to BPW International and advocates locally, nationally and internationally for women. BPW International works for global gender equality in power and decision-making through our advocacy and UN participation. BPW develops the business, professional and leadership potential of women through its advocacy, mentoring, networking, skill building and economic empowerment programs and projects around the world. Campaigning to raise awareness and seek prevention of domestic family and sexual violence and lobbying for gender equality are part of our core business. BPW Australia has a vision of a justice system that supports victim survivors of sexual violence, prioritises their wellbeing, and fosters a trauma-informed approach.*