

# Making Rights Reality: providing counselling, advocacy and legal responses to survivors of sexual assault with a cognitive impairment.

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*A joint program of SECASA and SMLS.*

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## **Summary of key findings**

### **Background**

- The 'Making Rights Reality' advocacy pilot project (MRR) was Part Four of a broader range of research, policy advocacy and legislative reform developed to address the inequities faced by people with a cognitive impairment<sup>1</sup> and communication difficulties who experience sexual assault (Goodfellow & Camilleri, 2003).
- This work has spanned a decade. It acknowledges that "achieving justice for victims of sexual assault with a cognitive impairment or communication difficulties is an enormous challenge for the criminal justice system" (Federation of Community Legal Centres 2011 p 5).
- In Victoria over this timeframe legislative reforms have been implemented to address some of these inequities in the justice system ("Crimes (Sexual Offences) Act," 2006). Central to these reforms were the 202 recommendations contained in the *Sexual Offences: Law and Procedure – Final Report* (Victorian Law Reform Commission, 2004), of which 18 related directly to complainants with cognitive impairment.
- An evaluation of the implementation of these recommendations found that overall they have begun to impact on outcomes for victims of sexual assault, with particular positive shifts being reported in supporting people with a cognitive impairment (Successworks, 2011). However, as the MRR project proposal states, "There are still significant non-legislative reforms [needed] around the particular needs of people with a cognitive impairment" (FCLC, 2011 p. 5).
- The project provides identifies victim of sexual assault as having a cognitive impairment and then provides an enhanced service to them to access counselling and advocacy and legal support.
- 108 people with a cognitive impairment were seen by the service in the two year evaluation period – 2012 – 2014
- The pilot was funded by philanthropic trusts and the Victorian Government

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<sup>1</sup>The definition of Cognitive Impairment used in the MRR project includes people with Acquired Brain Injury, people with an intellectual disability and people with dual disabilities - which might include a person with an intellectual disability and mental illness or ABI and an intellectual disability.

- It is now operating at a reduced level due to the lack of ongoing funding.

## Findings

### Data – clients

- Current statistics of sexual assault rates in Australia do not include disability, therefore there are no credible statistics available on incidence and prevalence
- Drawing on both research reported in academic journals and report based research by advocacy groups it is likely that people with disabilities are at least 50% more likely to experience abuse than the general population with people with intellectual disabilities being most at risk of sexual assault
- Sexual Assault services data in Victoria does not consistently report disability status of clients nor does police data.
- The MRR program sought to identify the disability status of clients over a two year period, identifying people with a cognitive impairment and providing them with pathways and opportunities to access professional, appropriate and specialised services to advocate for their current and ongoing needs independent of families, friends and carers.
- MRR saw 108 clients between March 2012 and March 2014
- 80% were women
- 58% identified as having an intellectual disability
- 19.6% identified as having an Acquired Brain Injury
- 58% were identified as having a mild level of disability
- They were clustered in two age groups – 36% 20 – 29 years and 37% 30 – 39 years

### Data – experiences of abuse

- 13 cases related to historical abuse – ie abuse that had occurred before 2012
- In 75% of cases the perpetrator was known to the victim; 25% family, 19% acquaintances, 13% recent or past partner, 8% fellow resident or employee, 8% carer/disability support worker
- In 15% of cases the perpetrator was a ‘stranger’ which included transport providers (taxi drivers)
- In 4% of cases the relationship of the victim to the perpetrator was not noted
- **In at least 16% of the cases the perpetrator is in contact with the victim in a place or relationship related to the victim having a disability**
- 56% of cases the assault occurred in the victims home which included residential service

### Outcomes of program

- People attended between 1 and 23 counselling sessions with the majority attending between 1 and 5 sessions

- The most striking difference between working with clients in this program compared to SECSASA clients not identified as having a cognitive impairment was the presence and involvement of 'others' in counselling – these people included family member and paid carers
- The training, resources and secondary consultation provided by the MRR project worker to all SECASA counsellor advocates enhanced their ability to work effectively with this client group.
- Easy read material developed during the project and now available on the SECASA website was noted as a key resource used by counsellor/advocates with this client group
- Springvale Monash Legal Service was the legal service involved in the program. A project worker was delegated to work with clients referred to them either through SECASA or those who independently accessed SMLS and identified as having a cognitive impairment
- 28 of the 108 cases were referred to SMLS ; in 11 additional cases people were referred but did not continue contact with SMLS
- 10 applications were made to VOCAT and 3 of these were awarded compensation
- The average time spent on an MRR client file at SMLS was 35 hours
- In 78% of the 108 cases the victim had reported the assault to police
- 40 SECASA counsellor advocates were trained to be Independent Third Persons – enabling them to attend the police interview with the client to ensure the client understood their rights and the communication between the police and client was effective
- A SECASA trained ITP was used in 11 cases between 2012 and 2014 – it is not clear if this reflects an under-utilisation of SECASA trained ITPs as there is no ITP data kept that identified whether police were choosing other ITPs instead of SECASA ITPs
- In 4 of the 44 cases where 'other justice outcomes' were recorded – 4 cases were reported but did not proceed with a further 7 reports that did not proceed due to lack of evidence
- There were 6 clear and reported positive justice outcomes including 3 convictions

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