



27 February 2026

Submission to the Inquiry into the Defence Amendment (Sexual Assault Prevention, Intervention and Response Commission) Bill 2025

Dear Committee,

Thank you for the opportunity to provide a submission to the Foreign Affairs, Defence and Trade Legislation Committee inquiry into the Defence Amendment (Sexual Assault Prevention, Intervention and Response Commission) Bill 2025.

About Us

With You We Can is a lived-experience led national advocacy organisation demystifying the police and legal systems for victims of sexual violence while working to improve them.

We provide an online education hub promoting equity of access to the law by making justice processes transparent, understandable and navigable for victims and their loved ones, and campaign to replace fragmented advocate services with comprehensive legal assistance throughout criminal proceedings.

In partnership with legal, academic and frontline services, we are calling for improved access to independent legal representation for victims of sexual violence across Australia, including increased government funding for free legal advice and representation services, and legislative reforms to ensure victims and their lawyers have standing to appear in criminal proceedings to protect victims' procedural rights.

Our recent report, 'What No One Told Us' outlines how critical gaps in legal literacy and legal advocacy drive justice failure and democratic erosion, and identifies reforms needed in every state and territory to strengthen the integrity of the system while improving outcomes for victims, including education about justice processes, accessible resources and access to independent legal representation.

Victim-survivors of sexual assault need independent legal representation

This submission addresses one central issue. If the Defence Amendment (Sexual Assault Prevention, Intervention and Response Commission) Bill 2025 is to achieve its stated goal of being trauma-informed, victim-centred and independent, it must guarantee structurally independent legal representation with standing rights for victim-survivors at every stage of the process, particularly in relation to protections for victim-survivor's confidential communications and records.



The findings of the Royal Commission into Defence and Veteran Suicide confirmed what lived experience has long made clear: sexual violence within Defence is not a peripheral disciplinary issue but a systemic harm linked to suicidality, profound psychological injury, premature separation from service and lifelong consequences. The Royal Commission's evidence established that institutional responses often compound the original harm. Victim-survivors described being disbelieved, sidelined, labelled as unstable, or medically downgraded following disclosure. They described watching their careers stall while alleged perpetrators continued to progress.

The Bill proposes to insert a new framework into the Defence Act 1903 establishing the Sexual Assault Prevention, Intervention and Response Commission (SAPIR Commission). The creation of a specialist body is a significant reform step. However, structural location matters. Powers matter. Rights matter. Without explicit statutory recognition that victim-survivors are rights-holders entitled to participate in and challenge decisions affecting them, reform risks replicating the very imbalances it seeks to address.

The lived experience evidence in our recent report, *What No One Told Us*, reveals a consistent theme: victim-survivors enter reporting systems without understanding the legal consequences of their choices. Many are required to decide between restricted and unrestricted reporting pathways without independent advice. Some discover only later that early statements bind them to investigative trajectories they did not anticipate. Others learn that confidentiality is not absolute. Several contributors described feeling that they had "handed their future" to a system whose rules were never clearly explained.

Executive Director of With You We Can, Sarah Rosenberg, has repeatedly written and spoken publicly about this legal literacy gap. In opinion pieces and national media interviews, she has observed that the accused are automatically entitled to representation, yet the complainant whose safety, privacy, career and mental health are directly implicated, must often navigate the process alone – these comments apply to both military and civilian justice settings. That asymmetry sends a powerful message about whose rights are recognised and whose are secondary. It also shapes outcomes. When victim-survivors are unsupported, they disengage. When they disengage, accountability falters.

The critical importance of independence

As Sarah Rosenberg has written and said publicly, "independence is not symbolic - it is structural." Without independent legal representation, victim-survivors remain exposed to the very institutional dynamics that failed them.

The Bill proposes a victim-survivors' legal counsel program within the SAPIR Commission itself. While this recognises the need for legal support, embedding representation inside the same statutory body responsible for oversight, investigation initiation and reporting creates a structural tension. A lawyer acting solely in the interests of a client may need to challenge investigative decisions, object to disclosure of counselling records, question evidence-handling procedures, or seek review of administrative determinations. That lawyer must be able to act without perceived or actual institutional constraint.



Independence is not merely symbolic - it is functional. In a closed institutional environment such as the ADF, perception of alignment can undermine confidence before representation even begins. Victim-survivors who contributed to *What No One Told Us* repeatedly described reluctance to trust personnel connected to institutional structures. This reluctance is supported by an abundance of literature. If the system is to restore confidence, legal representation must be delivered by an external statutory office or independently funded legal service, structurally separate from command and Commission authority.

Why lawyers for victim-survivors need to have standing to appear in court

Equally critical is standing. Access to advice without the legal right to appear and be heard in proceedings affecting one's rights is hollow protection. Decisions about disclosure of counselling notes, medical files or sexual history evidence are not abstract procedural matters. They determine whether intensely private information becomes part of a permanent record. They shape cross-examination strategies. They affect mental health and dignity. They can influence career trajectory and reputation within a tight professional community.

The Australian Law Reform Commission in its 2024 report 'Safe, Informed, Supported' recognised this in Recommendation 10, calling for statutory standing for victim-survivors in proceedings concerning subpoenas and inspection of sexual assault-related evidence that is personal, sensitive or confidential. That recommendation reflects a broader principle: victim-survivors are not mere witnesses. They are participants whose privacy and autonomy are directly at stake.

In the military context, the stakes are heightened. Disclosure decisions can intersect with posting reviews, medical categorisation, command assessments and administrative action. Without express statutory standing in service tribunals and related processes, victim-survivors remain dependent on prosecutorial discretion or institutional goodwill. That is not a safeguard; it is a vulnerability.

Why victim-survivors need independent legal advice before they report

The decision between restricted and unrestricted reporting is another moment of profound consequence. In our report, contributors described feeling pressured to decide quickly, sometimes in crisis, without understanding long-term ramifications. The choice determines whether command is notified, whether investigation commences, and how confidentiality operates. Informed consent in this context requires confidential, independent legal advice before a reporting pathway is finalised. The Bill currently provides no mandatory guarantee of such advice prior to election.

Trauma-informed practice cannot be limited to counselling services or sensitive language. It must be embedded in procedural design. Trauma is compounded when survivors discover their therapy notes have been subpoenaed, when they are not notified of evidentiary applications, or when decisions about their safety arrangements occur without consultation. Intention to minimise trauma, expressed in statutory objects or explanatory memoranda, must be translated into enforceable rights.



Recommendations to strengthen the Bill

For these reasons, With You We Can submits:

- The Bill should be amended to include an objects clause expressly recognising victim-survivors as rights-bearing participants entitled to dignity, safety, independent representation and meaningful participation.
- The victim-survivors' legal counsel program should be relocated outside the SAPIR Commission to an independent statutory or externally funded body.
- The legislation should guarantee access to independent legal advice prior to finalising reporting pathway decisions.
- The legislation should provide explicit statutory standing for survivors and their representatives in service tribunals and administrative proceedings involving disclosure or admissibility of sexual assault-related evidence.

These are not procedural embellishments - they are structural safeguards. The Royal Commission demonstrated the catastrophic consequences when institutional responses fail. If the SAPIR Commission is to represent a genuine reset rather than a rebranding of existing power structures, it must embed independence not only in title but in architecture.

With You We Can was created because victim-survivors are not only harmed by sexual assault, they are harmed by the silence, confusion and powerlessness that followed. This Bill presents Parliament with an opportunity to ensure that, in future, every victim-survivor in Defence is told clearly: you have rights, you have independent representation, and your voice must be heard.

We urge the Committee to recommend amendments that make those guarantees real.

Yours sincerely,
Sarah Rosenberg

Contact Us

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