



Information Session 1

# The Victims' Charter and the guidelines: an overview

16 November 2023

# Welcome

Janine Bush, CEO Victims of Crime  
Commissioners Office

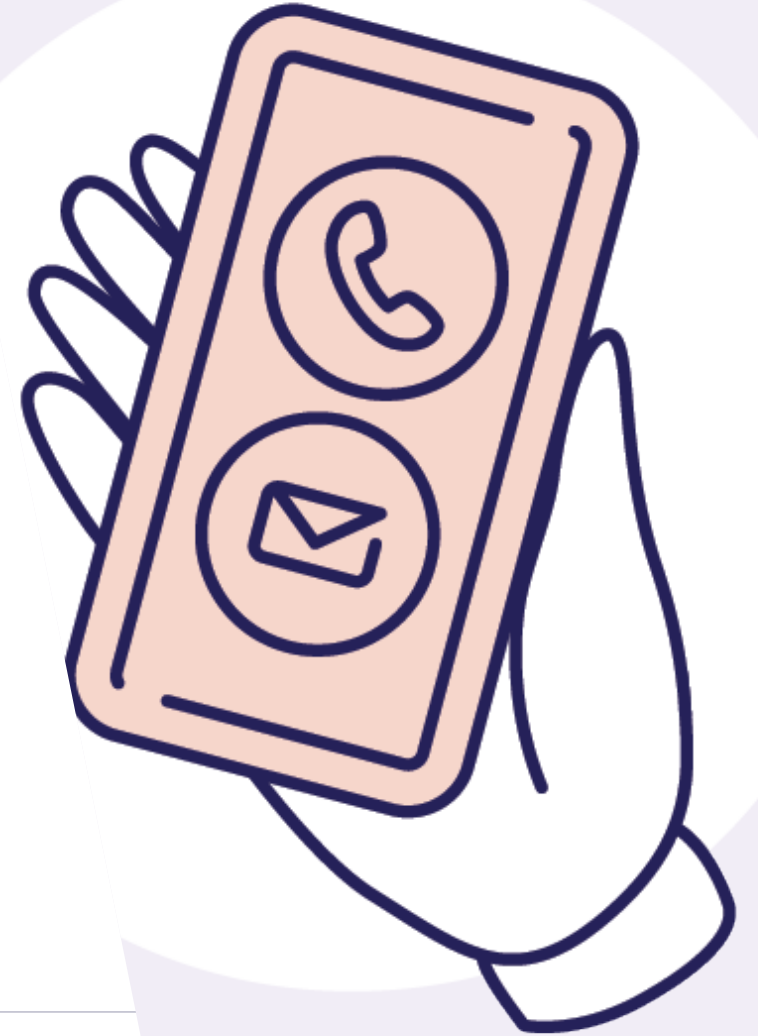
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# The Victims of Crime Commissioner

**"My job is to be informed about the experiences of victims of crime. This means to listen to, respect and learn from a diverse range of victims about how they have been treated by various agencies and services within the justice system."**

Fiona McCormack  
Victims of Crime Commissioner



# Organisational Chart - Teams



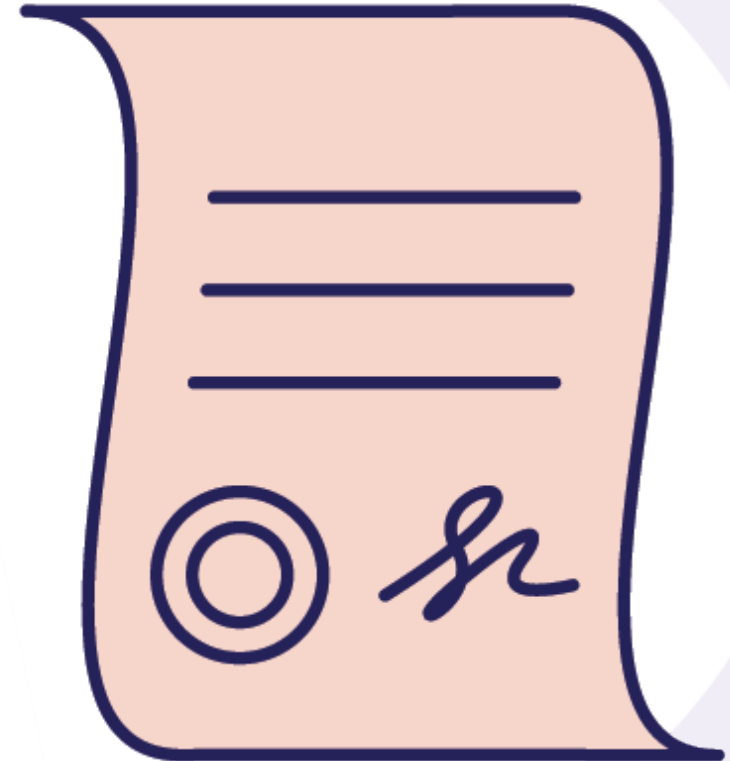
# Goals

1. Work with the community to understand and meet the needs of victims of crime
2. Encourage continuous improvement in the justice system's response to victims of crime
3. Hold agencies and services to account under the Victims' Charter
4. Advocate for a victim-centred approach to law, policy and practice
5. Ensure an independent and accountable Commissioner's Office



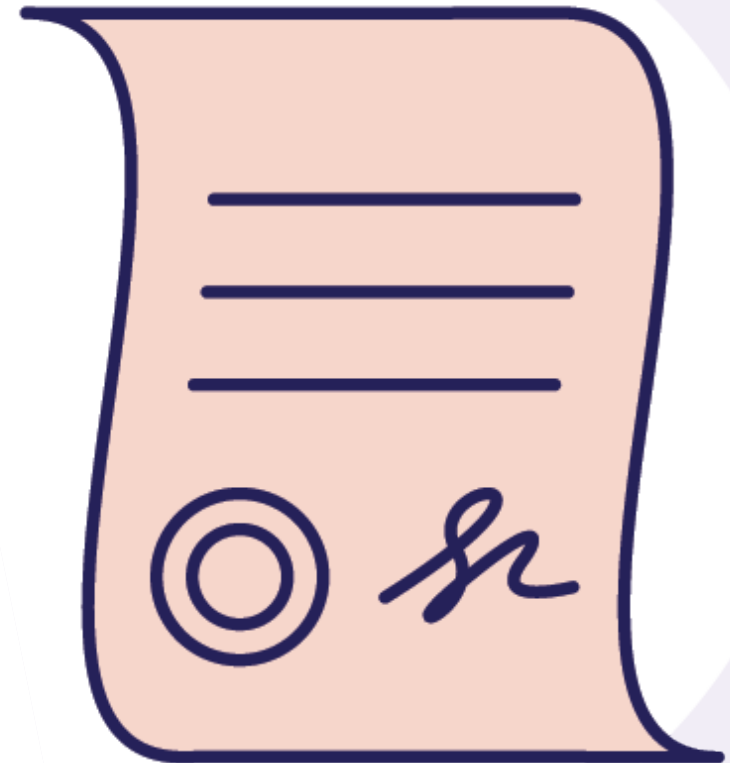
# Terminology

- In Victoria, the term ‘victim’ or ‘victim of crime’ and “person affected by crime” is used in legislation to describe someone who has experienced crime.
- Victims’ Charter Act 2006 – Review of the operation of the Charter and its benefits for victims November 2024



# This session

- Requests for information sessions from agencies
- Many topics requested. First few sessions:
  - Overview of the Victims Charter and the Victims Charter guidelines (Today)
  - Complaints and Victims Charter breaches – first half 2024
  - Topic Three – first half 2024



# Today – Overview

- Victims' Charter Act 2006
- Victims of Crime Commissioners Act 2015
- Victims of Crime Commissioner Regulations 2020
- The Victims' Charter guidelines





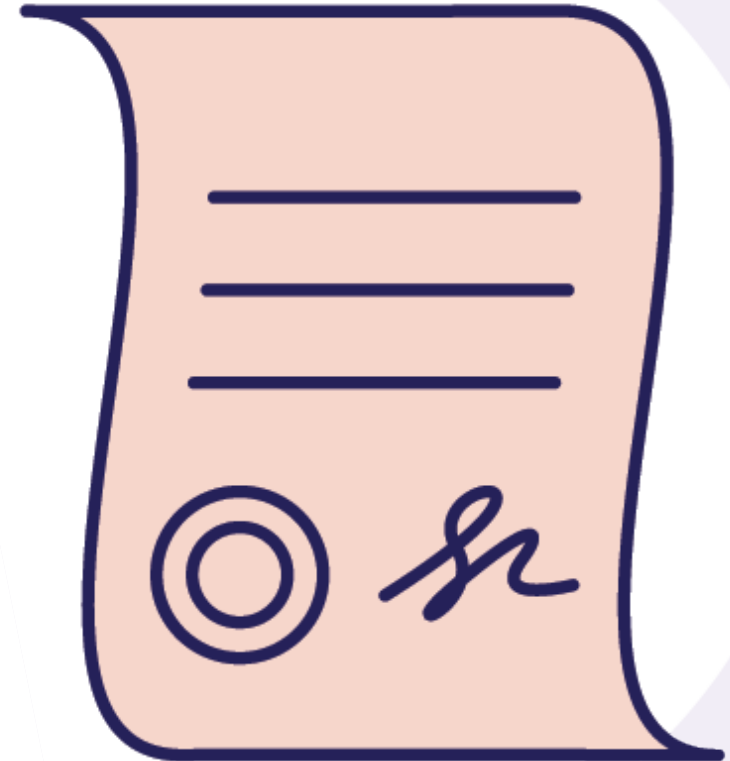
# Today – Overview

- Who is a victim
- Who is a person adversely affected by crime
- What is a victims service
- Why are some agencies prescribed agencies
- The Victims' Charter principles that apply to all agencies
- Why comply with the Victims Charter



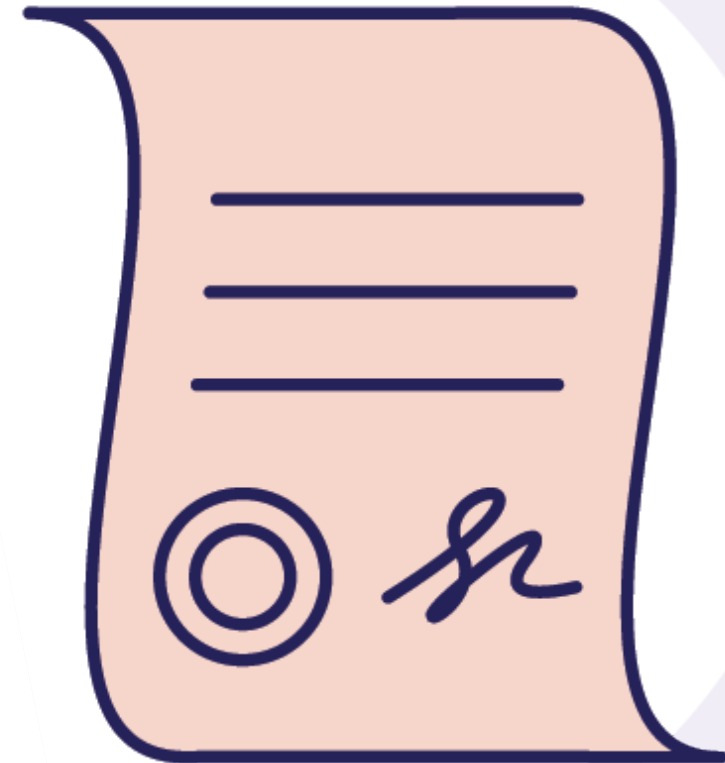
# The Victims' Charter Act

- United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (1985).
- Fair treatment.
- Treating victims with compassion and having respect for their dignity.



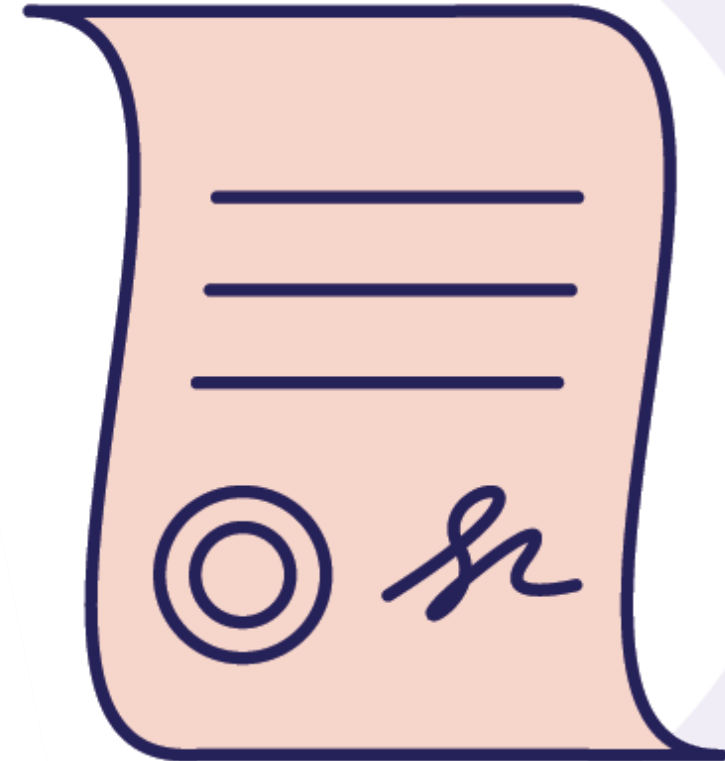
# Victims' Charter Act 2006

- Recognises the impact of crime on the victims, their families and the community
- Recognises that everyone affected by crime should be treated with respect and have access to recovery services
- Acknowledges the victim's role as a participant, but not a party, in the justice process
- Seeks to reduce the likelihood of secondary victimisation by the criminal justice system.



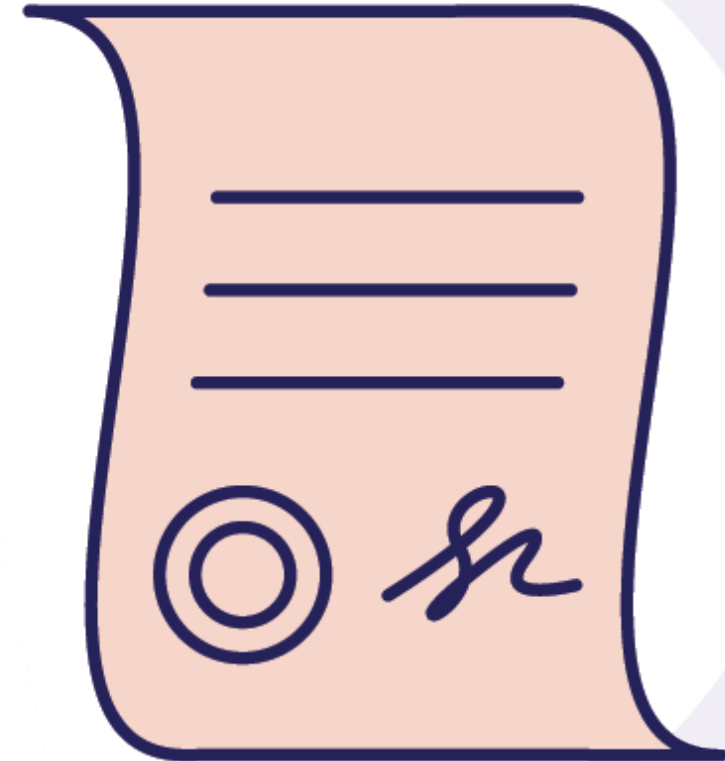
# Victims' Charter Act 2006

- Requires agencies to ensure victims:
  - Are treated with dignity, respect and courtesy
  - Have a say in the way they are communicated with
  - Have the information needed to engage with the justice system
  - Receive information and referrals to aid recovery
  - Can complain if they are unhappy
  - Can refer complaints about a failure to uphold the Victims Charter to the Commissioner



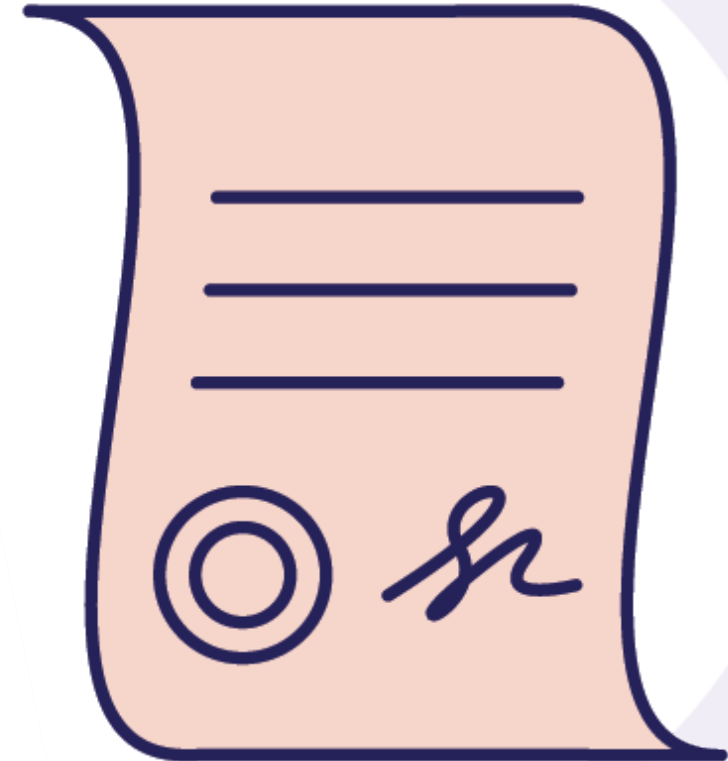
# Victims of Crime Commissioner Act 2015

- Establishes the office of the Victims of Crime Commissioner
- Empowers the Commissioner to:
  - Advocate for the recognition, inclusion, participation and respect of victims of crime
  - Carry out inquiries on systemic victim of crime matters
  - Report to the Attorney-General on any systemic victim of crime matter
  - Provide advice on improvements to the justice system.



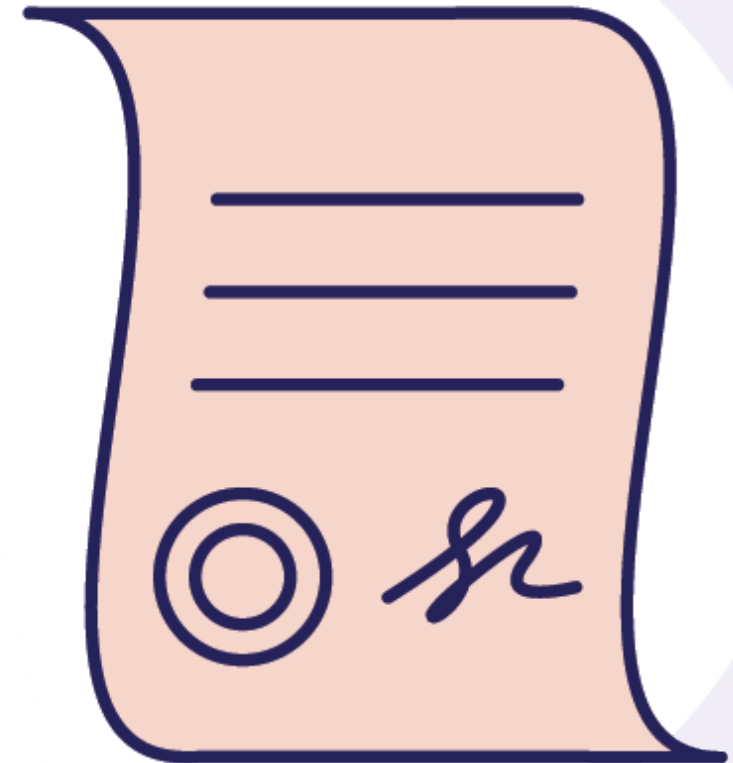
# Victims of Crime Commissioner Act 2015

- Empowers the Commissioner to:
  - Investigate complaints
  - Report to the Attorney-General on the extent to which justice and victims' services agencies comply with the Victims' Charter
- Independent and impartial
- Review the Victims' Charter



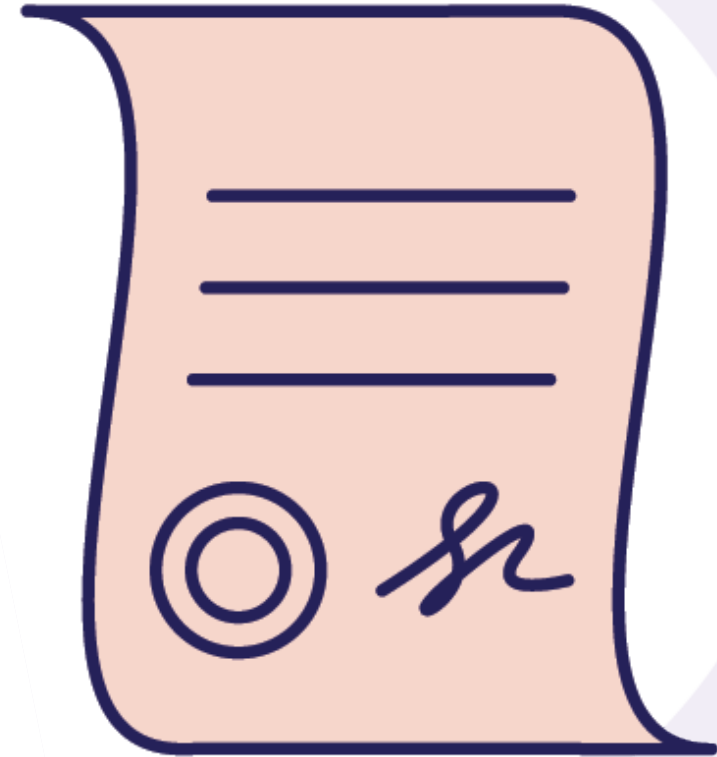
# Victims of Crime Commissioner Regulations 2020

- Prescribes certain agencies
- Three pieces of legislation working together



# Role of the Victims of Crime Commissioner

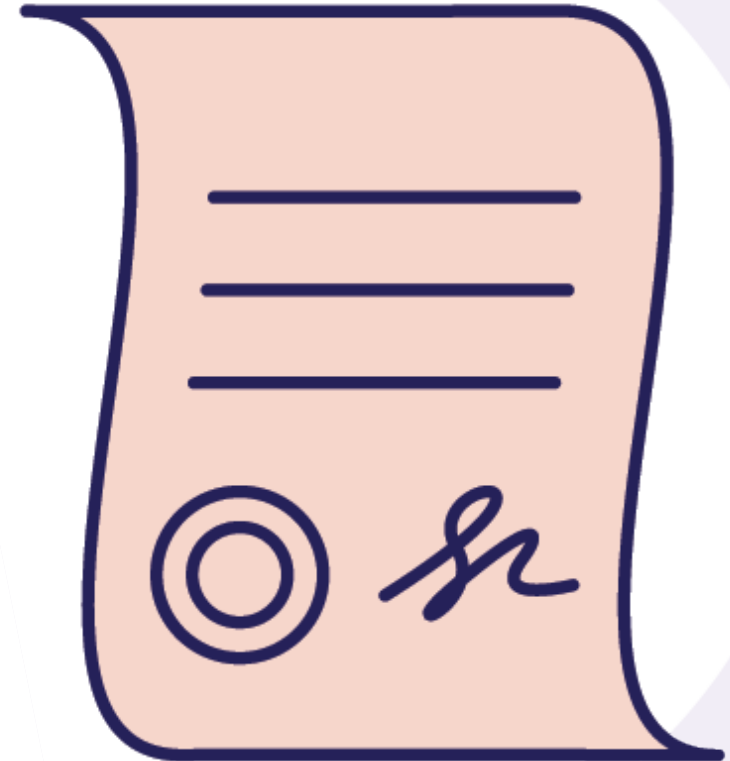
- Does not provide
  - Direct victim services
  - Legal advice
- Cannot advocate on behalf of a particular victim
- Cannot change or influence a decision by the prosecution or the court





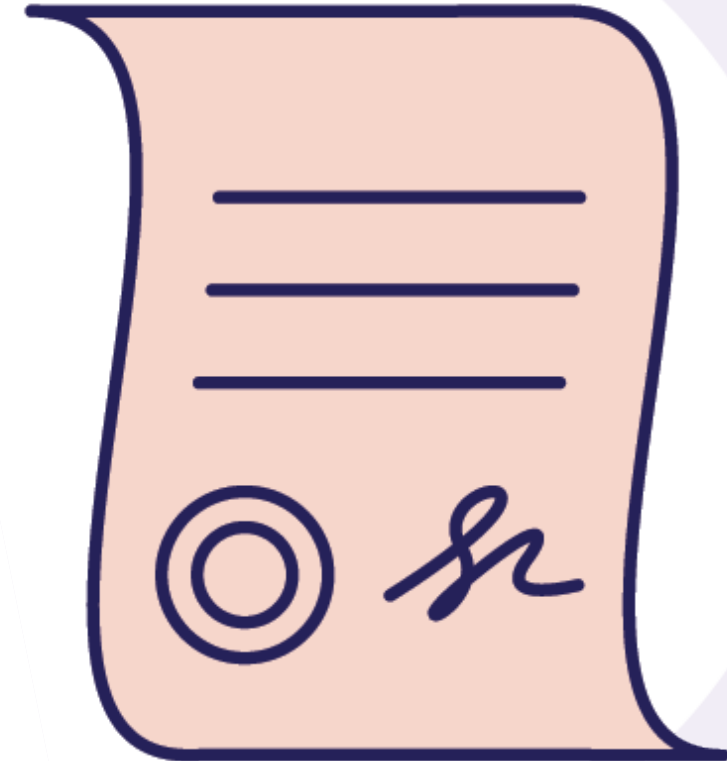
# Person adversely affected by crime

- Under the Victims' Charter a person adversely affected by crime
  - Natural person who has suffered injury as a direct result of a criminal offence
  - A family member
  - A witness



# Victim

- Under the Victims' Charter a victim
  - Natural person who has suffered injury as a direct result of a criminal offence
  - A family member if the natural person has died as a result of the criminal offence
  - A family member for a child under the age of 18 or a person incapable of managing their affairs due to mental impairment
  - In the case of an offence against section 49M of the Crimes Act 1958 (grooming for sexual conduct with a child under the age of 16), the child and a family member of that child



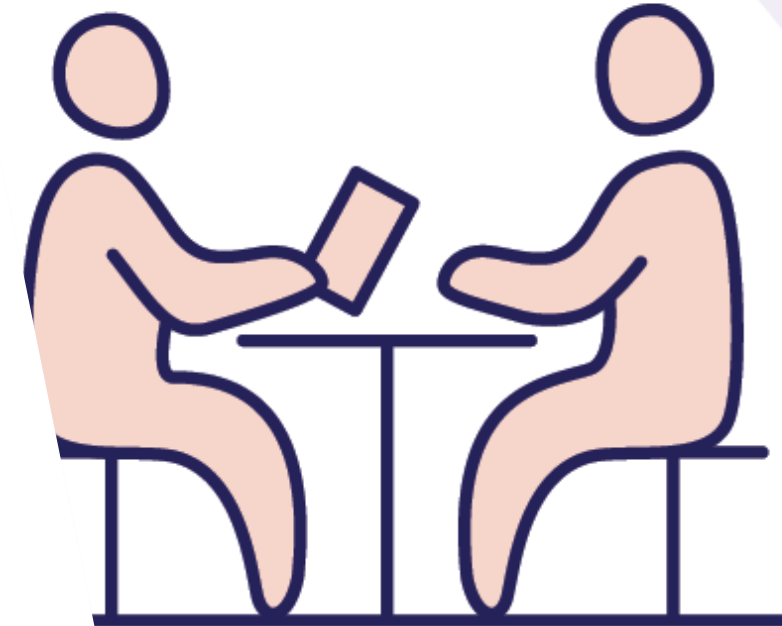
# Investigatory and Prosecuting Agencies

- An investigatory agency means
  - A police officer; or
  - A person authorised by an enactment to investigate a criminal offence
- A prosecuting agency means
  - The Director of Public Prosecution
  - A police officer; or
  - A person authorised to bring proceedings for a criminal offence against an enactment



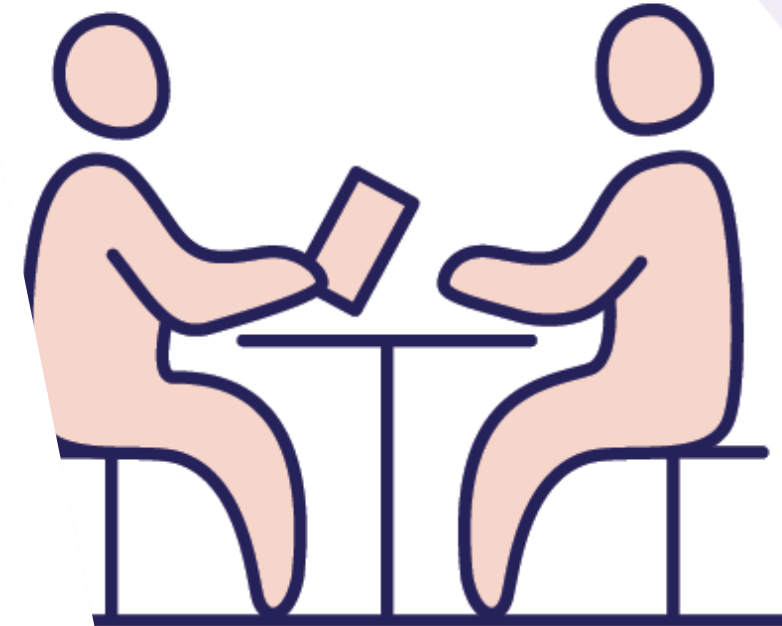
# Victims Service Agency

- an entity established under an enactment that is responsible for the provision of services to persons adversely affected by crime; or
- a public official within the meaning of the Public Administration Act 2004 who is responsible for the provision of services to persons adversely affected by crime; or
- **an entity that is publicly funded to provide services to persons adversely affected by crime.**



# All agencies

- Under section 18(1) - If an investigatory agency, a prosecuting agency or a victims' services agency is aware, or should reasonably be aware, that a person is a victim, the agency must have regard to the Charter principles when dealing with the person.
- Applies to the provision of services to victims of crime, as victims of crime



# Prescribed Agency

- Established in the Regulations
- The Commissioner is required to make a report annually to the Attorney General on their compliance with the Victims' Charter
  - Victoria Police, Office of Public Prosecutions, Victoria Legal Aid, WorkCover, the Secretary
  - Community Legal Service
  - Specialist victims of crime services and family violence services
  - Sexual assault services
  - Authorised Hub entities



# Prescribed Agency

- A person or body that receives funding under a State contract to
  - provide
    - specialist family violence services, or
    - sexual assault services, or
    - specialist victim of crime services,
  - to the extent that the person or body performs functions relating to the provision of services to victims of crime



# Prescribed Agency

- a Community Legal Service within the meaning of the Legal Profession Uniform Law Application Act 2014
- certified and accredited under the National Accreditation Scheme for Community Legal Centres,
- to the extent that the Community Legal Service performs functions relating to the provision of services to victims of crime





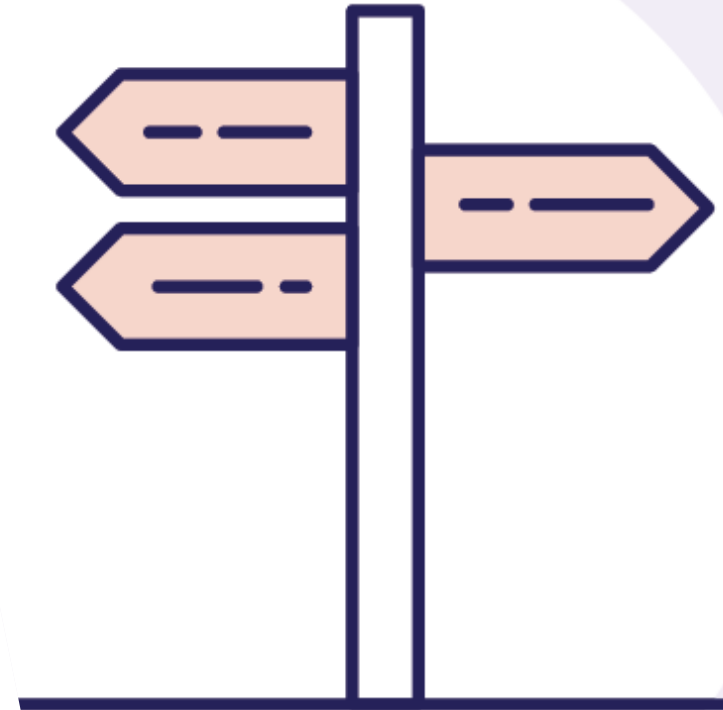
# Prescribed Agency

- Coverage review
- There is not a percent of your business that has to relate to the provision of services to victims of crime
- Many incidents of family violence and elder abuse involve criminal incidents
- Disputes in writing to the Charter compliance email



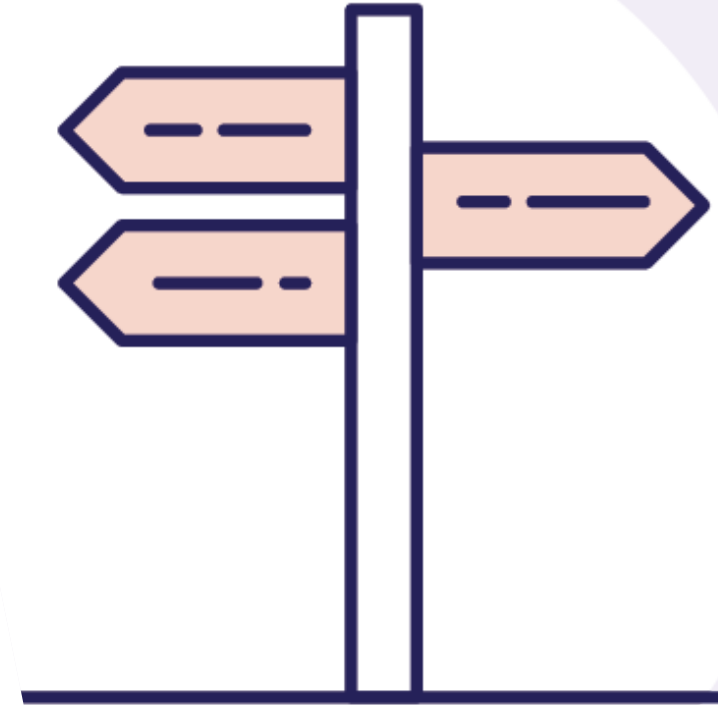
# The guidelines

- Assist agencies to understand the Victims' Charter and the Commissioner's expectations
- VOCC website under resources – Tools and guides for agencies.



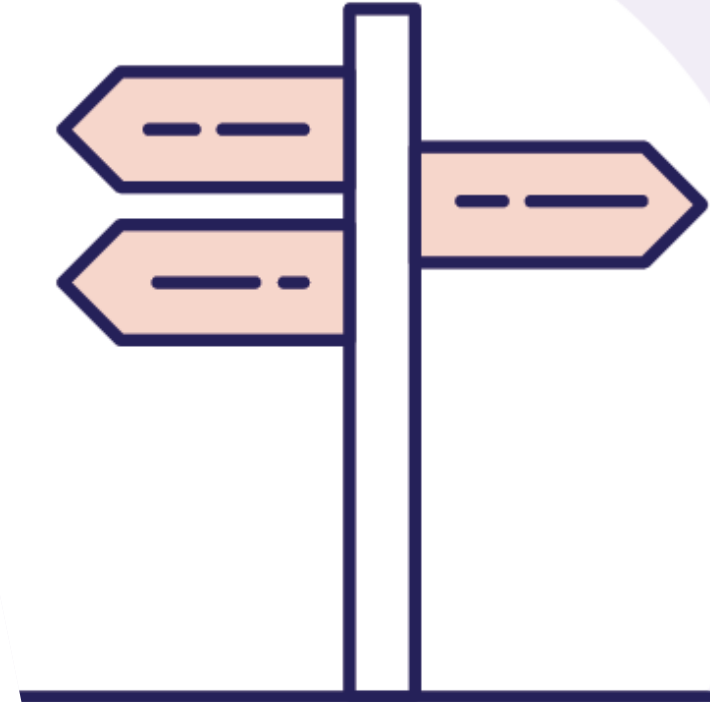
# The guidelines

- Focus on good practice guidance
- NOT regulatory compliance documents
- Do not explain reporting requirements or obligations
- High level
- Intended to be evolving

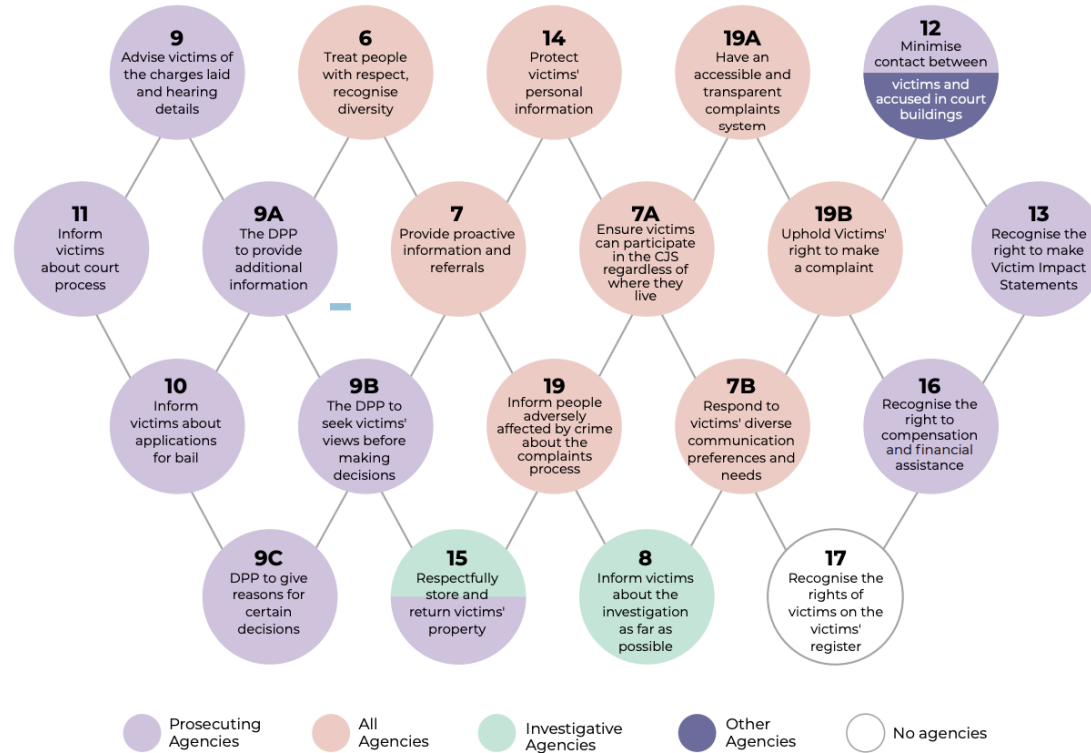


# The guidelines

- 1** Trauma Informed
- 2** Victim Centred
- 3** Intersectionality
- 4** Cultural Safety & Self Determination

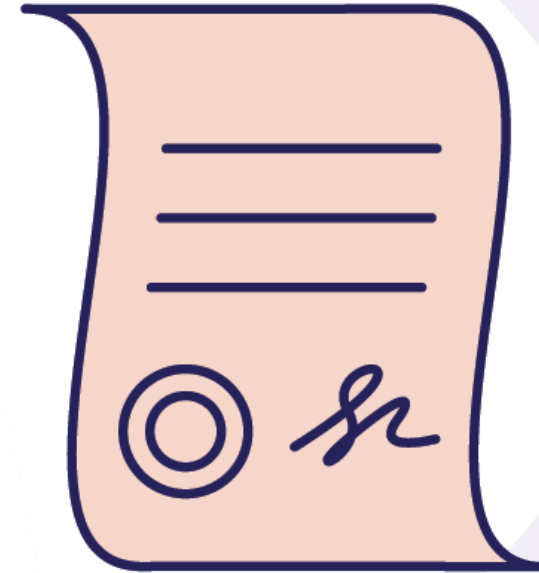


# Victims' Charter principles



# Victims' Charter principles

- How victims are treated
  - Sections 5, 6 and 7
- Communication, information and referrals
  - Sections 7(a), 7(b), 7B, and 14
- Complaints
  - Sections 19, 19A and 19B



# How victims should be treated

Principle	Principle details
Victim representatives section 5(1)	<b>Victims</b> or their families may nominate a person to be their representative
Treatment with courtesy, dignity, and respect section 6(1)	<b>Persons adversely affected by crime</b> are to be treated with courtesy, dignity and respect
	<b>Victims'</b> rights and entitlements should be respected as participants in proceedings for criminal offences

# How we treat victims

Principle	Principle details
Agencies should take into account particular needs in their treatment of persons sections 6(2) and 7A(b)	<p><b>Persons adversely affected by crime</b> are to have their diverse needs taken into account and responded to, which includes their:</p> <ul style="list-style-type: none"><li>• ethnicity</li><li>• status as an Aboriginal or Torres Strait Islander</li><li>• sex or gender identity</li><li>• cultural or linguistic diversity</li><li>• sexual orientation</li><li>• disability</li><li>• religion</li><li>• age</li><li>• geographic location (<b>Victims</b>)</li></ul>



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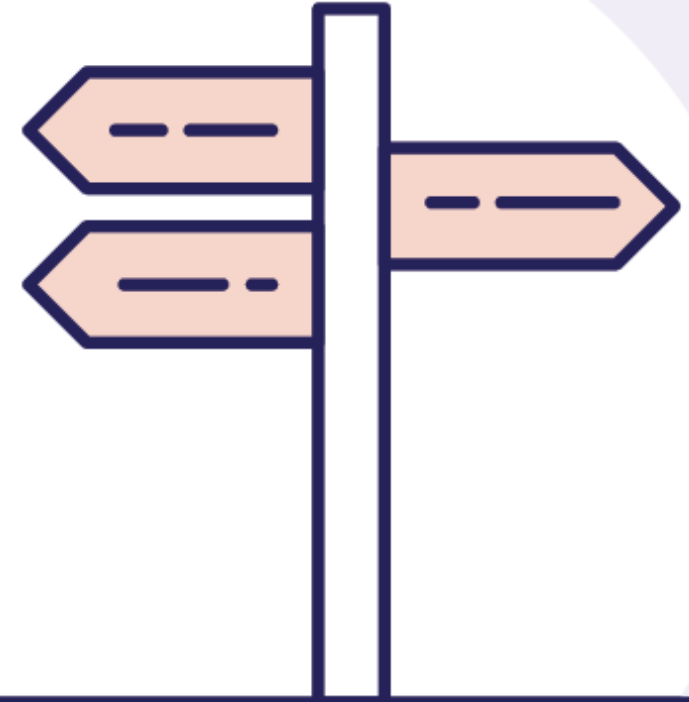
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### Good practice indicators

## Treatment of people adversely affected by crime

### Agencies engage with each person as an individual

- Early in their interaction, agencies ask people adversely affected by crime open questions to determine their needs (including accessibility). An open question is one that invites a full answer, rather than just 'yes' or 'no'. It is a question that doesn't make any assumptions about the person or how they might answer.
- Agencies recognise each person's individual needs and accommodate those needs wherever possible, rather than applying a one size fits all approach.
- Agencies try to offer each person support that is tailored to their needs, and to remove barriers, allowing all people adversely affected by crime to access services and engage with the justice system.



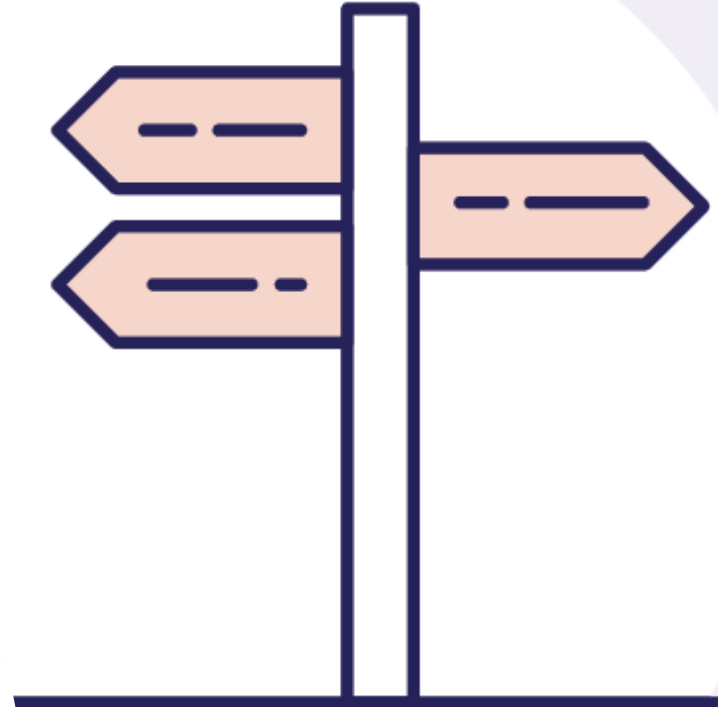
### Useful links and resources

Resources collated and provided by Safe and Equal, Victoria's peak body for specialist family violence services on its website have guides for Aboriginal peoples, children and young people, people with disability, LGBTIQ+ people, migrant and refugee, older people, criminalised women – available on its webpage [Providing tailored and inclusive support](#))

Victorian Legal Aid has plans and strategies available on its website, including:

- [Disability Action Plan](#)
- [Reconciliation Action Plan](#)
- [Client-First Strategy](#)
- [Client Priority and Capability Policy](#)
- [Gender Equality Action Plan](#)
- [Cultural Diversity and Inclusion Strategy](#)

The Centre for Innovative Justice released [Improving support for victims of crime - key practice insights in 2020](#)



# Information, Communication and

Principle	Principle details
Information on available services and support sections 7(a) and (b)	<p><b>Persons adversely affected by crime</b> should be provided clear, timely and consistent information or referrals to:</p> <ul style="list-style-type: none"><li>• Relevant victim support services</li><li>• Possible entitlements (such as a compensation order (Victim) or financial assistance)</li><li>• Legal assistance</li><li>• Processes for making complaints</li></ul> <p>• Preparation of victim impact statements (<b>Victim</b>)</p>

# Information, Communication and

Principle	Principle details
Communication needs and preferences section 7B	<p><b>Victims'</b> communication needs and preferences should be responded to. In particular:</p> <ul style="list-style-type: none"><li>• Whether they want to be contacted or not</li><li>• Their preferred contact method (which may change depending on the topic and time period)</li><li>• Their ability to understand information because of their English proficiency</li><li>• Their ability to understand information because a victim has a disability</li><li>• The ability to understand information because the victim is a child</li></ul>

# Privacy

Principle	Principle details
Protecting personal information section 14	<b>Victims'</b> personal information is not to be disclosed unless it is required for legal proceedings.

## Information, Communication and referrals

“If you give me a piece of paper, I would lose it in the back seat of my car. If you sent a link to my phone, I could come back to it later. My mum would not know what to do with the link and would lose the paper, she would benefit from a follow up phone call”.

*Victim of crime*



# Complaints

Section	Section details
Information regarding complaints process section 19	Should inform a <b>person adversely</b> affected by crime about the processes available for making a complaint
Complaint system section 19A	Must have an accessible and transparent system to receive and resolve <b>victims</b> complaints relating to the Charter principles. <b>Victims</b> must be advised of the complaint system and their right to refer the complaint to the Victims of Crime Commissioner as soon as is reasonably practicable after commencing to deal with that client.
Making a complaint sections 19A and 19B	<b>Victims</b> may complain to an agency if they believe the agency has not upheld a Charter Principle and seek a review from the Victims of Crime Commissioner of the agency's response to that complaint

# Complaints

- As soon as is reasonably practicable
  - Not only when they complain
- Must complain to the agency first
  - Commissioner's power of review
- Accessible and transparent
  - Victim must be able to access
  - Victims must be able to understand





# Systems, policies and governance

- Chapter 4 in the guidelines
  - Policies and procedures
  - Leadership and commitment
  - Data collection
  - Training and capability



## Other standards - HSS

- Human Service Standards are designed to cover a large range of services
- Misses some obligations that are in the Victims' Charter
- Not specific to victims of crime.
- Focus on
  - Empowerment
  - Access and engagement
  - Wellbeing and participation



