



Review of the operation of the *Victims' Charter Act 2006* and its benefits for victims

September 2025

Contents

Acknowledgements	5
Note on content of the Review	6
Message from the Victims of Crime Commissioner	7
Terminology	8
Glossary	9
Terms of Reference	11
Executive summary	14
Recommendations	28
Chapter 1: Background and context	40
Chapter 2: Increasing Charter awareness	52
Chapter 3: A more contemporary Charter	70
Chapter 4: Updating the Charter	80
Chapter 5: Application of the Charter	90
Chapter 6: The Charter and the Court	100
Chapter 7: Improving the Charter's complaints processes	118
Chapter 8: Strengthening the Charter's compliance scheme	142
Chapter 9: Aboriginal victim survivors and the Charter	152
Chapter 10: Ensuring the Charter continues to benefit victim survivors	158
Appendix 1: Prescribed Agencies	161
Appendix 2: Key events and reforms for victim survivors	162
Appendix 3: Proposed schedule of Charter rights	165



GPO Box 4356
Melbourne VIC 3000

5 September 2025

The Hon Sonya Kilkenny
Attorney-General

Dear Attorney-General

Review of the *Victims' Charter Act 2006* (Vic)

In accordance with section 29A of the *Victims of Crime Commissioner Act 2015* (Vic), I am pleased to present to you the report and recommendations of the Review of the operation of the *Victims' Charter Act 2006* (Vic) and its benefits for victims.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Elizabeth'.

Elizabeth Langdon
Victims of Crime Commissioner

Victims of Crime Commissioner

Phone 1800 010 017 | **Email** enquiries@vocc.vic.gov.au

Web victimsofcrimecommissioner.vic.gov.au

Acknowledgements

The Victims of Crime Commissioner (the Commissioner) acknowledges the knowledge, expertise, strength and resilience of all individuals who spoke to the Commissioner and her office about their experiences with the Victims' Charter.

In particular, the Commissioner and her office extend thanks to:

- Members of the Victims of Crime Consultative Committee.
- Members of the Commissioner's Lived Experience Advisory Group and Lived Experience Experts Network.
- Victim survivors and lived experience representatives from other advisory bodies.
- Investigatory, prosecuting and victims' services agencies.

The Commissioner and her office acknowledge Victoria's Aboriginal communities and pay respect to Elders past, present and emerging. We acknowledge Aboriginal people as Australia's First Peoples and as the Traditional Owners and custodians of the land and waters on which we live and work. We recognise and value the ongoing contribution of Aboriginal people and embrace their spirit of self-determination, self-management and reconciliation. We acknowledge the leadership of Victorian Aboriginal organisations in understanding and promoting healing from trauma across generations. We acknowledge the diverse and distinct cultures of Aboriginal and Torres Strait Islander people.

We acknowledge that many people have experienced trauma and discrimination through a range of adverse circumstances and events. These include women, people with disability, Aboriginal peoples, people in LGBTIQ+ communities, immigrants, refugees and other displaced people living in our community.

Note on content of the Review

This report includes material that may be distressing for some people, including direct quotes from victim survivors about their experiences. We encourage you to take care when reading and seek support if you need.

Support is available from the following services.

The Victims of Crime Helpline

Contact 1800 819 817 or text 0427 767 891.

Statewide Family Violence Service (Safe Steps)

Contact 1800 015 188 or visit safesteps.org.au.

1800 RESPECT

Contact 1800 737 732 or visit 1800respect.org.au.

Women's Legal Service Victoria Advice Line

Contact 03 8622 0600 (Metro Melbourne) or 1800 133 302 (regional callers) or visit womenslegal.org.au.

inTouch Multicultural Centre for Family Violence

Contact 1800 755 988 or visit intouch.org.au.

Lifeline

Contact 13 11 14 or visit lifeline.org.au.

13 YARN

Contact 13 92 76 or visit 13yarn.org.au.

Message from the Victims of Crime Commissioner

In 2006 Victoria enacted the *Victims' Charter Act 2006* (Vic) (the Charter) in line with principles of the United Nations *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*.

Embedding the Charter into law was a powerful signal of victim survivors' place in our justice system. For the first time in Victoria, it provided clear legislative recognition of the importance of victim survivors' rights in this system.

Laws are an important tool for change. Laws shape the values, behaviours and culture of the systems they govern.

Section 29A of the *Victims of Crime Commissioner Act 2015* (Vic) requires me to review the Charter and report to the Attorney-General by 7 September 2025. This Review has asked a very simple question: is the Charter operating to benefit victim survivors of crime? We heard from over 150 victim survivors and over 50 agencies to answer this question.

The Review examines the legislative framework that governs how victim survivors are treated within the justice system, identifies where those laws are working well and where they fall short.

This Review provides an opportunity for real change and improvements to benefit victim survivors' experience of the justice system. After 19 years of operation, it is an historic moment to reflect on whether the Charter is still meeting its aims in contemporary Victoria. The Review presents a reform agenda for victim survivors' rights.

Whether I spoke to people with lived experience or others working in the justice system, they all provided valuable insights about how we can make the Charter better for victim survivors.

I thank all those who have contributed to the Review, and particularly the 'small but mighty' team in my office who have worked for many months with purpose and a deep commitment to this significant project.

Stronger and more accessible legislation will help to build a system where victim survivors are informed about their rights, supported to advocate for these rights and empowered by their experience in the justice system. It will also help shape the norms and attitudes of legal professionals, institutions and the broader community.

Elizabeth Langdon
Victims of Crime Commissioner

Terminology

The ways in which those harmed by crime identify and describe themselves, and their experience of crime, is deeply personal.

The Commissioner recognises that there are many terms that are used to describe those who have experienced crime and are dealing with its impact. Some people identify with one of these terms more than others, and some people do not identify with any of these terms. In this report, the term 'victim' or 'victim of crime' is used where required because of its use in the Commissioner's legislative functions and powers under the *Victims of Crime Commissioner Act 2015* (Vic) and the *Victims of Crime Commissioner Regulations 2020* (Vic), and its use in the *Victims' Charter Act 2006* (Vic).

The term 'victim survivor' is also used. The Commissioner heard from many victim survivors that this is a more inclusive phrase, particularly for those who may identify with one, but not both terms.

We acknowledge that these terms may not represent all experiences for all people. Other terms such as 'survivor', 'complainant' and 'witness' may be used where it reflects the preferred usage of an individual or organisation, or where it best reflects the legal or other context.

The Victorian Aboriginal Justice Agreement, and its governance bodies, recognise that Aboriginal peoples living in Victoria and involved in the justice sector have diverse cultures. The term 'Aboriginal and Torres Strait Islander' is used when referring to Aboriginal and Torres Strait Islander people across Australia. When referring to Aboriginal and/or Torres Strait Islander peoples living in Victoria, the term 'Aboriginal person/people/Peoples' is used. Terms such as 'Traditional Custodians', 'Traditional Owners', 'Koori', 'Koorie', 'Indigenous', and 'Aboriginal and Torres Strait Islander' are retained in the names of programs, publication titles, and in reference to published data.

We have used the word Aboriginal to reflect all Aboriginal and Torres Strait Islander victim survivors and people throughout the report. The term Aboriginal is the term used by the Victorian Aboriginal Justice Agreement and our stakeholders including the Victorian Aboriginal Legal Service (VALS) and the Women, Families and Victims Collaborative Working Group. This Working Group oversees key *Burra Lotjpa Dunguludja* (Aboriginal Justice Agreement Phase 4) initiatives and emerging strategic projects arising from the Aboriginal Justice Forum.

There may be other terminology throughout the report that is used in a way that may have slightly different meaning for the reader. The Review has sought to identify terms that could be open to interpretation and explain their contextual use within the report.

Glossary

Term	Definition
AJC	Aboriginal Justice Caucus
CASA	Centres Against Sexual Assault
Charter	<i>Victims' Charter Act 2006 (Vic)</i>
CLC	Community Legal Centre
Commissioner	Victims of Crime Commissioner of Victoria
Commissioner's office	means those who work to support the Commissioner in carrying out their functions
Committee	Victims of Crime Consultative Committee
CSV	Court Services Victoria
DJCS	Department of Justice and Community Safety
DPP	Director of Public Prosecutions
DSC	Disability Services Commissioner
HCC	Health Complaints Commissioner
Justice and victims' services agencies	means investigatory agencies, prosecuting agencies and victims' services agencies as defined under section 3 of the <i>Victims' Charter Act 2006 (Vic)</i> and section 3 of the <i>Victims of Crime Commissioner Act 2015 (Vic)</i>
Prescribed agencies	means those agencies listed in the Victims of Crime Commissioner Regulations 2020 (Vic), regulation 4
RAJAC	Regional Aboriginal Justice Advisory Committee

Term	Definition
SASVic	Sexual Assault Services Victoria
Secondary victimisation	means where a victim is further victimised or traumatised through negative experiences during the criminal justice process and/or by support organisations.
SOCIT	Sexual Offences and Child Abuse Investigation Team
Systemic Inquiry	means the report of the then Victims of Crime Commissioner, Fiona McCormack, <i>Silenced and Sidelined: Systemic inquiry into victim participation in the justice system</i> ¹
Survey	means the online survey undertaken by the Commissioner as part of this Review
VEOHRC	Victorian Equal Opportunity and Human Rights Commission
VLA	Victoria Legal Aid
VLRC	Victorian Law Reform Commission
VLSBC	Victorian Legal Services Board and Commissioner
VOCC	Victims of Crime Commissioner
VOCC Act	<i>Victims of Crime Commissioner Act 2015</i> (Vic)
VOCC Regulations	Victims of Crime Commissioner Regulations 2020 (Vic)
VSSR	Victim Services, Support and Reform in the DJCS
VWAS	Victims and Witness Assistance Service, Office of Public Prosecutions

¹ Victims of Crime Commissioner, *Silenced and Sidelined: Systemic inquiry into victim participation in the justice system* (Report, November 2023) <[silenced-and-sidelined_systemic-inquiry-into-victim-participation.pdf](#)>.

Terms of Reference

BACKGROUND

The *Victims' Charter Act 2006* (Victims' Charter) sets out minimum standards and entitlements that apply to justice and victims' services agencies when interacting with victims of crime.

THE LEGISLATIVE REQUIREMENT TO CONDUCT A REVIEW

The Victims of Crime Commissioner (the Commissioner) must review the operation of Victims' Charter and its benefits for victims and report to the Attorney-General by 7 September 2025 (Victims' Charter Review).²

The Victims' Charter Review was recommended by the Victorian Law Reform Commission (VLRC) in their report *The Role of Victims of Crime in the Criminal Trial Process* (2016). The legislation which introduced the requirement for the VOCC to conduct the Victims' Charter Review requires the review to be 'comprehensive' but did not require the Victims' Charter Review to consider any specific issues. Therefore, these terms of reference set out what the Commissioner will consider as part of the Victims' Charter Review.

TERMS OF REFERENCE RELEASED 4 SEPTEMBER 2024

The Commissioner will review the operation of the Victims' Charter and its benefits for victims by considering:

1. victims' awareness and understanding of the Victims' Charter

2. victims' views on the effectiveness of the Victims' Charter in upholding their entitlements
3. the effectiveness of the Victims' Charter in ensuring justice and victim service agencies respect the entitlements of, and obligations owed to, victims, including for diverse victims
4. the effectiveness of reforms made to the Victims' Charter since the VLRC's 2016 report, including the extent to which the Victims' Charter is resulting in cultural change for the benefit of victims
5. whether further reform to the Victims' Charter for the benefit of victims is necessary, including consideration of:
 - a. current Victims' Charter principles and entitlements
 - b. current mechanisms for upholding entitlements or addressing breaches of the Victims' Charter
 - c. the overall structure and language of the Victims' Charter and whether this meets contemporary expectations
6. any other matters relevant to the operation of the Victims' Charter and its benefits for victims, including whether there are issues requiring further inquiry (whether by the Commissioner or another body).

In conducting the review, the Commissioner will also consider relevant findings from other reviews or inquiries, including findings of the former Commissioner's first systemic inquiry: *Silenced and Sidelined: Systemic Inquiry into Victim Participation*.³

² This review is required under section 29A of the *Victims of Crime Commissioner Act 2015* (Vic).

³ Victims of Crime Commissioner, *Silenced and Sidelined: Systemic inquiry into victim participation in the justice system* (Report, November 2023) <[silenced-and-sidelined_systemic-inquiry-into-victim-participation.pdf](#)>.

Executive summary



This Review requires the Victims of Crime Commissioner (Commissioner) to consider the operation of the *Victims' Charter Act 2006* (Vic) (Charter) and its benefits for victim survivors.⁴

This is the first legislative review of the Charter since its enactment 19 years ago.

Supported by the Review's Terms of Reference and Consultation Paper,⁵ the Commissioner consulted with over 150 victim survivors and lived experience representatives, and over 50 criminal justice and victims' service stakeholders. This consultation included:

- surveying and interviewing victim survivors about their experience of the Charter and its operation
- receiving written submissions from victim survivors and justice and victim service stakeholders in response to specific issues detailed in a Consultation Paper
- personally engaging with the Lived Experience Advisory Group and Victims of Crime Consultative Committee in relation to the Charter's operation, and
- speaking with stakeholders during consultations and roundtable discussions, in metropolitan and regional Victoria, about the current operation of the Charter.

This wide stakeholder group called for key changes to the way both the Charter and the *Victims of Crime Commissioner Act 2015* (Vic) (VOCC Act) operate. The Commissioner heard that while the Charter provides a useful framework for victim survivors' rights and entitlements ('rights'), there is currently very low awareness of the Charter. The Charter is not easy to understand. It does not provide sufficient protections for victim survivors from secondary victimisation by the criminal justice system (which is one of its stated Objects). Secondary victimisation can occur where a victim survivor is further victimised or traumatised through negative experiences with the justice process or organisations. Many victim survivors are not able to have their Charter rights upheld in a meaningful way.

The Commissioner heard from many victim survivors and justice and victims' service agencies about their suggestions for legislative reform to ensure that the Charter is operating more effectively for the benefit of victim survivors.

Each of these suggestions was carefully considered by the Commissioner. Many have formed the basis of the recommendations in this Report.

This Review sets out key findings and makes 25 recommendations at page 30.

⁴ *Victims of Crime Commissioner's Act 2015* (Vic) s 29A.

⁵ Victims of Crime Commissioner (Vic), *Victims' Charter Review Consultation Paper* (November 2024) <<https://victimssofcrimecommissioner.vic.gov.au/media/tzyhubuo/victims-charter-review-consultation-paper.pdf?id=vqAuchw-EUutb5QB1oVuJFo8CNLWjAlltpZ3FMzhdNdURjJXRDA5NkRFRFIVUJDM0JGUTVSVFhIUS4u>>.

Key findings

This Review finds that for the Charter to operate more effectively and meet victim survivors' needs it must be:

1. Widely known, understood and applied.
2. Inclusive, with an easy-to-use format reflecting contemporary expectations.
3. Effective at providing victim survivors with protection from harm caused by the justice system.
4. Strongly monitored through robust compliance and complaints processes.
5. Regularly reviewed to maintain the Charter's impact.

A MORE WIDELY KNOWN, UNDERSTOOD AND APPLIED CHARTER

To be able to successfully navigate the justice system, victim survivors need to know about, understand and be able to advocate for their rights under the Charter.

“ For many of us with lived experience ... lack of awareness can create a whole other layer of disadvantage. Without knowing our rights, we are left more vulnerable to different harms and more likely to accept mistreatment. And (we are) less equipped to really get the justice that we need.⁶

Low to no awareness

The data received by the Commissioner in relation to awareness of the Charter is overwhelming, consistent and uncontroversial. Eighty per cent of victim survivors surveyed as part of this Review said they had not been told about the Charter after experiencing a crime.

Despite the Charter providing the framework for victim survivors' rights in Victoria, it is deeply concerning that there is low to no awareness of the Charter among victim survivors. This includes awareness of:

- rights under the Charter
- how to access support services, and
- where to go, and what to do, if the Charter is not upheld.

This limits the Charter's effectiveness as a tool for advocacy and cultural change and therefore reduces its benefit to victim survivors.

Raising awareness

The Commissioner heard that not all agencies are aware of the Charter and the rights that victim survivors have under the Charter:

“ If you don't know how the Charter operates or works yourself how is anyone going to help a victim understand their rights?⁷

⁶ Consultation meeting Victims' Charter Review 2024/25 - Victim Survivors' Advisory Council.

⁷ Consultation meeting Victims' Charter Review 2024/25 - South West Region - sexual assault services, family violence services, Victim Assistance Program and specialist victims' legal service.

It is critically important to raise awareness of the Charter. In particular, the Charter should be public knowledge (and not just known about when a crime has taken place). To drive a culture of Charter awareness for the benefit of victim survivors, the Review recommends that, in consultation with victim survivors and lived experience groups, the Secretary, DJCS should develop:

- a strategy for promoting the Charter to those with responsibility for the development of criminal law policy, victims' service policy, the administration of criminal justice and victims' services
- a public awareness campaign to promote the Charter, and
- information about the Charter to be available in different formats which better recognise victim survivors' individual and diverse needs – Recommendation 1.

Ensuring victim survivors are told about their rights

The Commissioner heard from victim survivors about the importance of being told about their rights from the beginning and throughout the justice process. Eighty-seven per cent of victim survivors surveyed by the Commissioner said that all criminal justice and victims' service agencies have a role in telling them about the Charter.

The Review recommends that the onus should be on justice and victims' services agencies to tell victim survivors about the Charter and report on Charter promotion to the Commissioner – Recommendation 2. The Victims of Crime Commissioner Regulations 2020 (Vic) list the justice agencies and victims' services agencies (the prescribed agencies) that are to comply with the Charter. These agencies include Victoria Police, the Office of Public Prosecutions, government-funded sexual assault services, family violence services, victims' support agencies, the Victorian WorkCover Authority (WorkSafe) and the Financial Assistance Scheme (among others).

Agencies should give victim survivors a statement of rights and information on how to make a complaint. This would require agencies to explain the Charter and check a victim survivor's understanding of their rights, and the complaints process available where their rights are not upheld – Recommendation 3.

The Review recommends that all justice and victims' services agencies have mandatory training in place to support them to fulfil their 'communication'⁸ and 'information'⁹ obligations under the Charter. Justice and victims' services agencies would be required to report annually to the Commissioner on their Charter training activities – Recommendations 4 and 5.

⁸ *Victims' Charter Act 2006* (Vic) s 7B.

⁹ *Victims' Charter Act 2006* (Vic) s 7.

Strengthening the Charter's role in policy development

Under the *Charter of Human Rights and Responsibilities Act 2006* (Vic), when a Bill is introduced into parliament it must be accompanied with a Statement of Compatibility. The Statement of Compatibility provides information about whether a Bill is compatible with human rights, and if so, how it is compatible. It must also set out the nature and extent of any incompatibility.

The Review recommends that a 'Statement of Compatibility' process should apply to the Charter, where those involved in legislative development would need to assess whether a Bill is compatible with victims' rights as set out in the Charter. The Secretary, DJCS should develop a process, for consideration by government, which ensures that if any part of a Bill is incompatible with victims' rights and entitlements, it would need to set out the nature and extent of the incompatibility – [Recommendation 6](#).

This would provide a mechanism, during the development of justice related policy, for policy makers to have regard to the Charter principles and embed a Charter lens in policy and legislative processes. It will also assist the Secretary, DJCS to acquit their legislated responsibility to promote the Charter in policies and plans.

A MORE ACCESSIBLE AND CONTEMPORARY CHARTER

A Charter reflecting contemporary expectations

The Review found that the Charter no longer meets and reflects community expectations about:

- the impact of offending on victim survivors
- the diversity of victim survivors and their needs, and
- the role of the Commissioner in monitoring agency compliance with the Charter.

When considering whether the Charter is fit for its contemporary purpose, the Review determined at [Recommendation 7](#) that the Charter should include a new Purpose and Objects. These would be co-designed with victim survivors.

The Purpose of the Charter should be rewritten to clearly set out rights for victim survivors, which relate to their treatment by justice and victims' service agencies and their participation in the justice system. It should refer to the scheme for monitoring compliance with these rights.

The Objects of the Charter should recognise the central role of victim survivors, the trauma caused by victimisation and the diversity of victim experience and needs.

The term 'Charter' is not accessible for victim survivors and was seen by some people as legalistic, particularly in the absence of the term 'rights' which is more commonly understood:

“ *What is a charter? Victims' Rights Act might be more meaningful or palatable or easy to Google ... victims' rights are easier for victims to understand rather than a "Charter".*¹⁰

The Review recommends that the Charter should be renamed the *Charter of Victims' Rights*.

In particular, the Review found that when considering the operation of both the Charter and the VOCC Act, there is a disconnect between the Acts – they are separate pieces of legislation that do not sufficiently reference each other. This disconnect results in uncertainty for victim survivors and for justice and victims' services agencies who must comply with their Charter obligations. To increase access to justice and Charter rights, both Acts should be consolidated into one. This consolidated Act needs to be more straightforward in explaining victims' rights and addressing contemporary understanding of the victim survivors' experience – **Recommendation 8.**

Updating the Charter to provide simple and clear rights

Some of the language in the Charter is outdated. The Charter should be updated to reflect more inclusive and contemporary language.

The Commissioner also heard that, as legal terminology is difficult for most people to comprehend, information about victim survivors' rights must be easier to understand and be provided in a variety of formats (e.g. visual, not just written).

The Commissioner heard that the Charter is:

“ *Difficult to understand.*¹¹

“ *Too long, confusing and full of legal jargon.*¹²

“ *very complex. How do we translate to something that is nice and easy for practitioners?*¹³

¹⁰ Consultation meeting Victims' Charter Review 2024/25 - Barwon Region - sexual assault services, family violence services, Victim Assistance Program and Barwon Multidisciplinary Centre representatives.

¹¹ Consultation meeting Victims' Charter Review 2024/25 - inTouch NOOR Victim Survivor Advocates.

¹² Written submission Victims' Charter Review 2024/25 – GenWest.

¹³ Consultation meeting Victims' Charter Review 2024/25 - Barwon Region - sexual assault services, family violence services, Victim Assistance Program and Barwon Multidisciplinary Centre representatives.

The Charter needs to provide a stronger rights-based framework for victim survivors. Victim survivors want clear, simple rights instead of principles (as the Charter is currently expressed). These rights should:

- use mandatory active language
- have a responsible agency
- be set out under themes so that victim survivor rights can be more easily understood, and
- elevate Charter principles to Charter rights.

Introducing rights instead of principles into the Charter will not create a legal right to any action for victim survivors experiencing non-compliance with their rights. The Charter will continue to operate in accordance with section 22, which specifically states that no legal rights are affected.

Importance of having a 'responsible agency'

Many stakeholders said that having a responsible agency, or agencies, listed against each Charter principle or right would make it clear for victim survivors which agency is responsible to uphold the right. This also gives a clear path for victim survivors to complain if the right is not upheld. Assigning a responsible agency to a Charter right will lead to greater Charter compliance from agencies. It will help drive cultural change in the way that victim survivors are supported by victims' services, prosecuting and investigatory agencies.

Putting the onus on the justice agencies and victims' services, and clarifying their duties, will strengthen the effectiveness of the legislation.

Proposed Charter rights

The Charter should be amended to become a simple and strong statement of Victims' Charter Rights, with a responsible agency (or agencies) clearly listed against each Charter principle or right to ensure the right is upheld and agencies are clear about their obligations.

This simpler statement of Victims' Charter Rights should be set out in a Schedule to the Act and developed in consultation with victim survivors – **Recommendation 9.**

GREATER PROTECTION FOR VICTIM SURVIVORS UNDER THE CHARTER

During this Review, the Commissioner heard varying views from victim survivors and stakeholders about:

- whom the Charter should apply to, and
- how the right to information and consultation under the Charter should be applied.

Definition of victim

The Review found that, while the current definition of ‘victim’ in the Charter is broad, it:

- excludes certain victim survivors, and
- varies across other Victorian legislation that deals with victims, which leads to inconsistencies and possible confusion.

Given the complexities involved in expanding the definition of ‘victim’ in the Charter, the Review recommends that the Attorney-General refer a review of the definition of ‘victim’ to the Victorian Law Reform Commission, having regard to the different definitions of ‘victim’ across all legislation – **Recommendation 10**.

The right to information and consultation

Under section 9 of the Charter, general rights to information are provided to victim survivors regardless of crime type.

Additional rights to information and consultation are available to victim survivors of indictable crime, heard in the higher courts and prosecuted by the Director of Public Prosecutions. These rights include:

- date, time and location of court hearings
- progress of the prosecution, including outcomes of hearings, and
- providing views on certain prosecutorial decisions and being given reasons for certain decisions.

These additional rights facilitate victim survivors’ participation in significant prosecutorial decisions.

Inequity in information and consultation rights

Some serious crimes against the person, which include assault, stalking and certain sexual offences, are prosecuted by Victoria Police as summary matters in the Magistrates’ Court. Victim survivors of these crimes are not currently entitled under the Charter to the additional information and consultation rights available for indictable matters heard in higher courts (County and Supreme Courts) and prosecuted by the Director of Public Prosecutions.

The Commissioner heard from victim survivors and stakeholders that these Charter principles should apply consistently to all victim survivors regardless of the prosecuting agency and the court the matter is heard in.¹⁴

The Victorian Parliamentary *Inquiry into Victoria's justice system* recommended that the Charter be amended so that victim survivors have the same 'entitlements to information, regardless of whether a prosecuting agency is dealing with a summary or indictable offence'.

Not all stakeholders support extending consultation rights to the summary jurisdiction. The Commissioner acknowledges the resourcing and efficiency impacts on the Magistrates' Court and Victoria Police if additional consultation obligations are extended.

Nonetheless, the Review recommends that the obligations under sections 9A, 9B and 9C of the Charter should also apply to all crimes against the person in summary matters – **Recommendation 11**.

Are the Courts' subject to the Charter?

Many victim survivors expressed concern that the Courts were not subject to the Charter:

“ I think everyone should be covered by the Charter ... it should apply to anyone who has to interact with victims in any way.¹⁵

The Commissioner heard during the Review about victim survivors being and feeling disrespected during court processes – either by the presiding judicial officer or by other professionals under the control of the Court.

The Commissioner also heard from many victim survivors and stakeholders that the Charter should require the Courts to ensure victim survivor safety while in court buildings and the courtroom.

During consultations, there were various views about whether the Charter should apply to the Courts and the extent to which it should apply. There was also discussion about whether the Charter should apply to all legal professionals in criminal proceedings, including defence barristers and solicitors.

Section 6 of the Charter relates to treating victims with courtesy, respect, and dignity, and taking into account and being responsive to their needs.

¹⁴ Consultation meeting Victims' Charter Review 2024/25 - Bendigo Region - sexual assault services, SOCIT Victoria Police, Child Protection, Victim Assistance Program, family violence services, community legal service, multicultural services; Consultation meeting Victims' Charter Review 2024/25 - South West Region - sexual assault services, family violence services, Victim Assistance Program and specialist victims' legal service.

¹⁵ Confidential victim survivor interviews February – March 2025.

The Review's position is that section 6 of Charter should apply to all judicial officers, defence barristers and solicitors, justice and victims' services agencies and employees interacting with victim survivors during court processes, including hearings and trials. This aims to ensure that victim survivors are protected against any further trauma during the court process – Recommendation 12.

The Review recommends that Court Services Victoria (CSV) be an agency to whom section 6 of the Charter applies, given its role in supporting all courts and judicial officers to perform their functions, and in ensuring safety for victims – Recommendations 13 and 14.

CSV should be subject to the complaints processes that apply to all agencies who are subject to the Charter, and to monitoring by the Commissioner.

Investigating complaints and monitoring the compliance of judicial officers with the Charter should remain with the Judicial Commission.

The Review's position is that there should be a clearly stated victim principle (or right) to safety in courts. The principle includes the use of safe entries and exits, safe waiting spaces, special arrangements for giving evidence and appropriate protections in the courtroom. CSV should be the responsible agency to uphold this principle – Recommendation 14.

The Charter should also be amended to apply to defence barristers and solicitors, and any complaints of non-compliance made to the Victorian Legal Services Board and Commissioner (VLSBC). The legislation governing the Judicial Commission and the VLSBC should be amended to align with the relevant Charter principles – Recommendation 12.

A Charter complaints process that meets victim survivors' needs

The Commissioner's functions to investigate complaints about non-compliance with the Charter principles were introduced into legislation in 2018, following findings from the Victorian Law Reform Commission's 2016 report *The Role of Victims of Crime in the Criminal Trial Process*.¹⁶

The Review found that there is low to no awareness of the complaints process amongst victim survivors.

¹⁶ Victorian Law Reform Commission, *The Role of Victims of Crime in the Criminal Trial Process* (Report No 34, August 2016) <https://www.lawreform.vic.gov.au/wp-content/uploads/2021/07/VLRC_Victims-Of-Crime-Report-W.pdf>.

72%

of victim survivors surveyed as part of this Review said they were not told about the complaints processes within justice agencies / victim service agencies.

58%

of survey respondents were not aware that the Commissioner could hear complaints about the way they were treated.

The Commissioner heard from victim survivors that they want a more victim-centred complaints system that addresses their needs in a simple, responsive and timely way.

Victim survivors need better options to make complaints and have those complaints addressed. Also, the Review recommends that justice and victims' services agencies implement structured and trauma-informed feedback processes, in addition to formal complaints processes. Agencies would report annually to the Commissioner on feedback received from victim survivors – Recommendation 15.

The Commissioner frequently heard during the Review that victim survivors are concerned about the requirement to first make a complaint to the agency, before contacting the Commissioner to complain about the Charter principles not being upheld. Victim survivor dissatisfaction included fear of making a complaint directly, a belief that the process is futile, and is not trauma-informed, independent or trustworthy:

“ I think a good complaints process has to be independent of the service that you're complaining about.¹⁷ ”

“ If is not always safe or viable to report directly to the agency and victim survivors are not sure about what will happen after they have made a complaint.¹⁸ ”

“ Yes, it is so hard for a victim to 'fight' with an offending agency. Commissioner is the 'safe' option to speak to.¹⁹ ”

The requirement to make a complaint to the agency first is a barrier to having issues resolved. The Commissioner heard that certain groups of victim survivors face additional vulnerabilities and barriers to reporting complaints and should not be required to first complain to the relevant agency, such as where:

¹⁷ Consultation meeting Victims' Charter Review 2024/25 - Lived Experience Experts Network Youth representatives.

¹⁸ Consultation meeting Victims' Charter Review 2024/25 - Victims of Crime Commissioner's Lived Experience Advisory Group.

¹⁹ Consultation meeting Victims' Charter Review 2024/25 - Victim Representatives - Victims of Crime Consultative Committee.

- sexual and family violence has occurred
- a victim survivor alleges they have not been supported by the agency in a culturally safe manner
- complaints are made by Aboriginal victim survivors, and
- victim survivors face discrimination based on their gender.

The requirement for a victim survivor to first complain to an agency should be removed – [Recommendation 16](#).

Victim survivors want the Commissioner to have greater powers to resolve their complaints. To provide a flexible and trauma informed complaints process for victim survivors, new ways to resolve a complaint should be introduced in legislation, including facilitated resolution and assisted referrals – [Recommendation 17](#). These measures are consistent with trauma informed practice, providing victim survivors with the choice to take up less formal and adversarial complaints processes, such as facilitated resolution, should this be their preference.

Enhanced powers should be introduced to better oversee and report on agencies' progress in implementing recommendations following a complaint outcome – [Recommendation 18](#). This recommendation provides victim survivors with certainty that the Commissioner will monitor and report on agencies' actions following the outcome of complaints. It also puts agencies on notice that the Commissioner will exercise this power and creates an opportunity for compliance and cultural change.

The Review found that public reporting on non-compliance with Charter rights and complaints is an important mechanism to ensure independent and transparent visibility of complaints. The Review recommends that justice and victims' service agencies be required to report each year on complaints received in their annual report – [Recommendation 19](#).

To further encourage transparency and accountability the Commissioner should be required to report annually to the Victims of Crime Consultative Committee and the Aboriginal Justice Caucus on complaints, including trends, issues and/or outcomes, both received by justice and victims' service agencies and the Commissioner – [Recommendation 20](#).

Reporting annually to these fora responds to feedback from victim survivors who want to see systemic trends in complaints about Charter non-compliance recorded and reported.

The Review considered the Commissioner's current referral of information powers, which is limited to a small list of agencies. It is clear that the Commissioner's ability to conduct their functions under the Charter and the VOCC Act will be improved if the referral power in the VOCC Act is amended to include a broader list of agency heads – [Recommendation 21](#). As victim survivors interact with many aspects of government, the Commissioner should be able to refer matters to a broader list of agency heads.

STRONGER CHARTER COMPLIANCE

During this Review, the Commissioner heard from many victim survivors that justice and victims' services agencies do not embed Charter principles in their practices, and do not always comply with the Charter principles.

Non-compliance with the Charter is not being adequately addressed. The Charter was described by some victim survivors as 'toothless' and 'just another document of words on paper that don't actually achieve anything'.²⁰ The Commissioner also heard that the rights in the Charter 'are very specific and not able to be followed up with any consequences so they are essentially optional to follow'.²¹

Agencies who fail to comply with the Charter should be held more accountable:

“ There needs to be accountability... if agencies don't comply. If there is no recourse the Charter is compromised.²²

“ If you have a Victims' Charter it must be enforceable with agencies that are accountable for doing the wrong thing even if it's just an apology letter.²³

The Review makes three recommendations to ensure more effective oversight of Charter compliance, intended to achieve cultural change to benefit victim survivors.

The Commissioner's role as an independent monitor of Charter compliance needs to be more strongly articulated. This would give clarity to victim survivors and agencies that agency compliance with the Charter is being monitored and overseen by an independent Commissioner. This Review recommends that the Charter be updated to state the Commissioner's monitoring and compliance functions – **Recommendation 22**.

To avoid confusion and clarify the Commissioner's monitoring role, this Review recommends the removal of the requirement in the Charter for the Secretary, DJCS to monitor, evaluate and review the operation of the Charter – **Recommendation 23**. This recommendation recognises that the Charter became law in 2006, nine years before the Commissioner's role was created. It is appropriate that the role of monitoring, evaluating and reviewing the Charter moves away from the Secretary, DJCS, as a justice agency, and sits with the Commissioner.

²⁰ Victims of Crime Commissioner online victim survivors survey November 2024 – March 2025.

²¹ Victims of Crime Commissioner online victim survivors survey November 2024 – March 2025.

²² Confidential victim survivor interviews February – March 2025.

²³ Confidential victim survivor interviews February – March 2025.

To address victim survivors' overwhelming feedback, the Review recommends that both the Charter and the VOCC Act be amended to provide the Commissioner with stronger compliance powers. This would enable the Charter to truly work to achieve cultural change in victim survivors' experience of the justice system. It will lead to lasting benefits for victim survivors.

The Commissioner's powers should be expanded where, following the outcome of an investigation, if the Commissioner determines there are serious and/or repeated systemic non-compliance with the Charter occurring within an agency. The Commissioner should be empowered to specify an action a justice or victims services' agency should take to meet their Charter obligations, where there is evidence that the agency is not meeting these obligations – **Recommendation 24**.

The Commissioner should be empowered to issue compliance notices for serious and systemic non-compliance with the Charter (where an action has been directed and is not satisfactorily complied with) and require agencies to report back on actions taken to address compliance notices within a specified period – **Recommendation 24**.

ABORIGINAL VICTIM SURVIVORS AND THE CHARTER

The Commissioner acknowledges that Aboriginal people are dramatically over-represented as victims of crime but are under-represented as recipients of victim support services.²⁴ The Commissioner heard that for many Aboriginal victim survivors of crime, the Charter is currently ineffective at protecting and articulating their rights.²⁵

The Commissioner heard about the systemic barriers for Aboriginal people when reporting crime:

“ Many victims of crime do not want to report to police or pursue prosecutorial pathways. This can stem from fears they might not be believed, or be misidentified as the perpetrator, criminalised, discriminated against and mistreated in the process.²⁶

The Charter should operate to include and benefit the unique, diverse and complex needs of Aboriginal victim survivors of crime.

The recommendations in this Review reflect feedback from consultations and submissions received from Aboriginal organisations. While the Review does not make recommendations only for Aboriginal victim survivors, a number of recommendations are made to directly improve the experiences of and benefit Aboriginal victim survivors of crime in response to the feedback heard.

²⁴ Victorian Government, 'Reforms We Will Deliver to Support Victims of Crime' (Web Page, 15 June 2022) <<https://www.vic.gov.au/victim-support-update/reforms-we-will-deliver-support-victims-crime>>.

²⁵ Written submission Victims' Charter Review 2024/25 - Victorian Aboriginal Legal Service.

²⁶ Written submission Victims' Charter Review 2024/25 - Victorian Aboriginal Legal Service.

We heard that there needs to be specific and targeted Charter promotion for Aboriginal communities, in various formats, developed in consultation with Aboriginal victim survivors. This could include creating resources for use in primary and secondary schools. Providing hard copy sources of information about victim support are helpful for promoting services to Aboriginal victim survivors (See [Recommendation 1](#) – information about the Charter should be available in different formats which better recognise victim survivors' individual and diverse needs).

The Commissioner heard that 'language has changed a lot in 20 years – revisit language and ensure that the Charter speaks more to our mob.'²⁷ The Objects and Purpose of the Charter need to recognise Aboriginal peoples' right to self-determination and cultural safety (See [Recommendation 7](#) – Purpose and Objects of the Charter to be amended to recognise the central role of victim survivors, the trauma caused by victimisation and the diversity of victim survivor experience and needs).

Aboriginal victim survivors of crime have the right to feel safe when attending court and this includes safe entries and exits, waiting spaces and special access arrangements for giving evidence (See [Recommendation 14](#) – the Charter to be amended to include a clear victim survivor principle to safety in courts).

The Commissioner heard that 'Aboriginal people do not use the Charter complaints mechanism as it is unlikely to result in any meaningful outcome for them.'²⁸ The Review recognises that the requirement to first report a failure to comply with the Charter to an agency is a barrier for Aboriginal victim survivors when making complaints. The requirement to first report a failure to comply with the Charter to an agency should be removed (See [Recommendation 16](#) – requirement for a victim survivor to first complain to an agency should be removed).

The Commissioner should be required to report annually on complaints about Charter non-compliance to the Aboriginal Justice Caucus (AJC) – [Recommendation 20](#). This reporting function will provide the AJC with a systemic view of complaints made by Aboriginal victim survivors, will assist with raising the profile of the Charter and measure its 'utility and effectiveness.'²⁹ This acknowledges the feedback that the Charter is currently considered 'ineffective at protecting and articulating the rights of Aboriginal victims of crime.'³⁰

²⁷ Consultation meeting Victims' Charter Review 2024/25 - Women, Families and Victims Collaborative Working Group.

²⁸ Written submission Victims' Charter Review 2024/25 - Victorian Aboriginal Legal Service.

²⁹ Written submission Victims' Charter Review 2024/25 - Victorian Aboriginal Legal Service.

³⁰ Written submission Victims' Charter Review 2024/25 - Victorian Aboriginal Legal Service.

The Commissioner also wishes to highlight the recommendation from the Systemic Inquiry *Silenced and Sidelined* to establish an Aboriginal Social Justice Commissioner to address systemic barriers to participation for Aboriginal peoples. An Aboriginal Social Justice Commissioner role, if established by the Government, is supported by many Aboriginal organisations³¹ and could enhance Aboriginal victim survivors' culturally safe access to Charter rights and complaints processes.

The Commissioner emphasises that the report's discussion about the effectiveness of the Charter for Aboriginal victim survivors is intended to faithfully reflect what they heard from Aboriginal people who engaged with the Review.

Consistent with principles of self-determination, the Commissioner suggests that the Attorney-General seek the views of the AJC about the best way to incorporate the Aboriginal community's assessment of the above recommendations into the Government's response to this Review.

REGULAR REVIEW TO MAINTAIN THE CHARTER'S IMPACT AND BENEFIT

In this Review the Commissioner looked at ways the Charter can be improved, remain relevant and continue to benefit victim survivors. The opportunity to consult broadly with victim survivors and other stakeholders made it clear that ongoing cultural change is only possible where laws and policies stay relevant.

The Review recommends an independent review of the Charter and the VOCC Act, no later than 10 years from the tabling of this Review. The review should examine the implementation of recommendations from this Review, with a focus on complaints and compliance functions, to ensure that the Charter continues to drive cultural change, as originally envisaged by Parliament. Any review should be conducted independently of the Commissioner to provide a transparent account of how the Commissioner's office is functioning – [Recommendation 25](#).

CONCLUSION

The Review's 25 recommendations present an important reform agenda which can be implemented within two years. Some recommendations can commence and take effect sooner. The Commissioner requests that implementation be co-designed with victim survivors. The Commissioner appreciates the generosity and dignity of the many victim survivors who shared their experiences and ideas for reform.

³¹ Written submission Victims' Charter Review 2024/25 - Victorian Aboriginal Legal Service; Consultation meeting Victims' Charter Review 2024/25 - Women, Families and Victims Collaborative Working Group.

Recommendations



Based on the findings, the Review makes 25 recommendations to improve how the Charter operates in order to meet the needs of victim survivors of crime in Victoria. These are listed in full at page 30.

FIGURE 1. Recommendations to improve outcomes for victim survivors



TIMELINE FOR IMPLEMENTING THE RECOMMENDATIONS

Certain recommendations propose legislative change to the Charter. Others recommend the design and implementation of operational arrangements.

This Review seeks to see its recommendations implemented within 24 months of its publication.

This would allow sufficient time to implement the recommendations appropriately.

The Commissioner would like to see legislative changes initiated through parliamentary processes, at the same time as practical and policy changes occur. Implementation of some of the recommendations can begin immediately and take effect sooner.

Review recommendations

A MORE WIDELY KNOWN, UNDERSTOOD AND APPLIED CHARTER

CH.
2

Recommendation 1

As part of the role of the Secretary, Department of Justice and Community Safety to promote the *Victims' Charter Act 2006* (Vic), as provided at section 20(a) of the *Victims' Charter Act 2006* (Vic), the Secretary should develop a:

- a. strategy for promoting the Charter to those with responsibilities for implementing the Charter under section 18 of the *Victims' Charter Act 2006* (Vic)
- b. public awareness campaign promoting the *Victims' Charter Act 2006* (Vic), and
- c. suite of Victims' Charter information in various formats for diverse audiences

in consultation with victim survivors and lived experience groups and other stakeholders.

A MORE WIDELY KNOWN, UNDERSTOOD AND APPLIED CHARTER

CH.
2

Recommendation 2

The *Victims' Charter Act 2006* (Vic) should be amended:

- a. to require justice and victims' services agencies to promote awareness of the Victims' Charter within their organisation and to victim survivors who interact with their agency and or service, and
- b. so that justice and victims' services agencies report on their promotion of the Victims' Charter (within their organisation, and to victim survivors who interact with their agency and or service) in their annual report.

Recommendation 3

The *Victims' Charter Act 2006* (Vic) should be amended to require justice and victims' services agencies to provide victim survivors with a statement of rights within a reasonable time after that victim survivor engages with the agency and/or service. The statement of rights should be communicated regularly and in multiple formats, and include:

- victim survivors' rights
- obligations on justice and victims' services agencies, and
- how to make a complaint.

Recommendation 4

The functions of the Victims of Crime Commissioner should be expanded to include the development of training on the *Victims' Charter Act 2006* (Vic) that must be implemented by all justice and victims' services agencies. The Victims of Crime Commissioner should be funded to develop this training.

Recommendation 5

All justice and victims' services agencies must:

- a. have in place mandatory training on the *Victims' Charter Act 2006* (Vic) for all new staff, and mandatory refresher training for all other staff at a period of every three years that implements the training developed by the Victims of Crime Commissioner, and
- b. report annually to the Victims of Crime Commissioner on their mandatory training on the *Victims' Charter Act 2006* (Vic) including providing evidence of its implementation in their annual report.

A MORE WIDELY KNOWN, UNDERSTOOD AND APPLIED CHARTER

CH.
2**Recommendation 6**

The Secretary, Department of Justice and Community Safety should develop a Statement of Compatibility process, for consideration by government, with respect to the *Victims' Charter Act 2006* (Vic) where legislation relates to victim survivors (including exposure draft, co-ordination comments, Cabinet Approval in Principle and Bill at Cabinet submissions and Parliamentary introduction). This would embed a Victims' Charter lens in policy and legislative processes and assist the Secretary to acquit their function to raise awareness of the *Victims' Charter Act 2006* (Vic).

A MORE ACCESSIBLE AND CONTEMPORARY CHARTER

CH.
3**Recommendation 7**

The *Victims' Charter Act 2006* (Vic) be amended to:

- a. reflect a new Purpose and Objects, co-designed with people who have lived experience
- b. be named the Charter of Victims' Rights, and
- c. reflect more inclusive language.

A MORE ACCESSIBLE AND CONTEMPORARY CHARTER

CH.
3**Recommendation 8**

The *Victims of Crime Commissioner Act 2015* (Vic) and the *Victims' Charter Act 2006* (Vic) should be consolidated into one modernised Act that includes the recommendations made in this Review and ensures the Victims' Charter operates effectively.

Recommendation 9

The *Victims' Charter Act 2006* (Vic) should be:

- a. amended to reflect a simple and strong statement of Victims' Charter Rights, set out in a Schedule to the Act. This statement of rights should:
 - o use mandatory active language
 - o have a responsible agency
 - o be set out under themes so that victim survivor rights can be more easily understood, and
 - o be co-designed with people who have lived experience.
- b. reviewed (at Section 22 of the *Victims' Charter Act 2006* (Vic)) to ensure there are no inconsistencies with the use of rights-based language in the statement of rights.

Recommendation 10

The Attorney-General should refer to the Victorian Law Reform Commission a review of the definition of 'victim' in the *Victims' Charter Act 2006* (Vic) having regard to the definition of victim across all Victorian legislation. This review should consider:

- a. Whether the *Victims' Charter Act 2006* (Vic) should expand the definition of victim having regard to the definition of victim across other Victorian legislation.
- b. The impacts of expanding the definition of victim in the Charter on operation of other Acts and schemes.
- c. Opportunities to harmonise and ensure definitions are clear and consistent to the extent appropriate.

Recommendation 11

The *Victims' Charter Act 2006* (Vic) should be amended to ensure that obligations under sections 9A, 9B and 9C of the *Victims' Charter Act 2006* (Vic) will apply to all crimes against the person in summary matters.

GREATER PROTECTION FOR VICTIM SURVIVORS

Recommendation 12

The *Victims' Charter Act 2006* (Vic) and other relevant legislation should be amended to apply appropriate rights and responsibilities to the Court in its engagement with victim survivors, including by amending:

- a. the *Victims' Charter Act 2006* (Vic) to ensure that section 6 will apply to all judicial officers, defence barristers and solicitors, justice and victims' services agencies and employees interacting with victims during all justice processes, hearings and trials
- b. the *Victims' Charter Act 2006* (Vic) in Part 3 (s 18(2)) to expressly state that "a person or body responsible for...the administration of criminal justice" includes judicial officers and Court Services Victoria
- c. the *Victims' Charter Act 2006* (Vic) and the *Victims of Crime Commissioner Act 2015* (Vic) to provide that any non-compliance with the section 6 Charter principle by judicial officers, defence barristers and solicitors could be the basis for a victim survivor to make a complaint to the relevant professional conduct or complaints body (Judicial Commission of Victoria and the Victorian Legal Services Board and Commissioner)
- d. the *Victims of Crime Commissioner Act 2015* (Vic) to expand the functions of the Victims of Crime Commissioner to include:
 - o engagement with the Judicial Commission of Victoria and the Victorian Legal Services Board and Commissioner
 - o sharing of information among these agencies regarding individual and systemic non-compliance with the Charter
 - o the development of education and awareness-raising measures, and
- e. the Judicial Commission of Victoria and the Victorian Legal Services Board and Commissioners' codes of conduct and relevant legislation to recognise the section 6 Charter principles, when investigating complaints made by victims of crime about their treatment by judicial officers and barristers and solicitors during a justice process.

Recommendation 13

The *Victims' Charter Act 2006* (Vic) should be amended to include the responsibilities of Court Services Victoria to:

- a. include a new category of agency that will include Court Services Victoria. This new category of agency will be required to treat persons adversely affected by crime with courtesy, respect and dignity and take into account and respond to their needs (section 6 Charter principle), minimise contact between victims and the accused in court buildings (section 12 Charter principle) to provide for victim survivors' safety in Court
- b. enable the definition of 'agency' in the *Victims' Charter Act 2006* (Vic) to include the new category of agency that includes Court Services Victoria and to ensure the Charter complaints and monitoring compliance applies to Court Services Victoria
- c. enable the definition of 'agency' in the *Victims of Crime Commissioner Act 2015* (Vic) to include the new category of agency that includes Court Services Victoria and to ensure the Charter complaints and monitoring process applies to Court Services Victoria
- d. enable the *Victims of Crime Commissioner Regulations 2020* (Vic) to specify Court Services Victoria as a prescribed agency, and
- e. clarify that the implementation of this recommendation will not interfere with the exercise of the jurisdiction of a court or direct a court as to the manner or outcome of the exercise of its judicial function in any case or any other judicial or quasi-judicial function.

Recommendation 14

The *Victims' Charter Act 2006* (Vic) should be amended to ensure there is a clear victim survivor entitlement to safety in courts through:

- safe entries and exits
- safe waiting spaces
- special access arrangements for giving evidence, and
- protection in the courtroom (e.g. use of screens to shield from the accused).

Court Services Victoria should be the responsible agency.

GREATER PROTECTION FOR VICTIM SURVIVORS

CH.
7**Recommendation 15**

The *Victims' Charter Act 2006* (Vic) and the *Victims of Crime Commissioner Act 2015* (Vic) should be amended to require:

- a. justice and victims' services agencies to implement trauma informed complaints and structured feedback systems under Section 19A of the Victims' Charter
- b. justice and victims' services agencies report annually and thematically to the Victims of Crime Commissioner on feedback received, and
- c. the Victims of Crime Commissioner to report trend data in their annual report.

GREATER PROTECTION FOR VICTIM SURVIVORS

CH.
7**Recommendation 16**

The *Victims' Charter Act 2006* (Vic) and the *Victims of Crime Commissioner Act 2015* (Vic) should be amended:

- a. to remove the requirement that a victim survivor must first make a complaint to the justice and victims' services agency under section 25A(b) of the *Victims of Crime Commissioner Act 2015* (Vic) and section 19B of the *Victims' Charter Act 2006* (Vic)
- b. to ensure that section 19A(3) of the *Victims' Charter Act 2006* (Vic) requires justice and victims' services agencies to inform victim survivors that a complaint can be made either to the Victims of Crime Commissioner if dissatisfied with the agency's response to the complaint or directly to the Victims of Crime Commissioner who may investigate the complaint, and
- c. to ensure that section 25I of the *Victims of Crime Commissioner Act 2015* (Vic) provides that the Victims of Crime Commissioner may investigate whether a justice and victims' services agency has complied with the Victims' Charter principles if a victim survivor makes a complaint directly to the Victims of Crime Commissioner.

Recommendation 17

The *Victims of Crime Commissioner Act 2015* (Vic) and the *Victims' Charter Act 2006* (Vic) should be amended to clarify that the Victims of Crime Commissioner can undertake earlier and more informal resolution of complaints by employing a broad range of approaches, such as facilitated resolution and assisted referrals.

Recommendation 18

The *Victims of Crime Commissioner Act 2015* (Vic) should be amended to:

- a. clarify that the Victims of Crime Commissioner will monitor a justice and victims' services agencies implementation of complaint recommendations and publicly report on implementation where this would not identify individuals
- b. clarify that the Victims of Crime Commissioner will report on a justice and victims' services agencies implementation of recommendations following the outcome of complaints investigations, and
- c. require justice and victims' service agencies to provide information on the implementation of recommendations, including at the request of the Victims of Crime Commissioner.

Recommendation 19

The *Victims' Charter Act 2006* (Vic) should be amended and consequential amendments made to the *Victims of Crime Commissioner Act 2015* (Vic) to require justice and victims' services agencies to report annually on Charter complaints in their annual report and include information such as:

- a. total number of complaints received
- b. number of complaints against each Charter right
- c. how the complaint was resolved, and
- d. number of complaints referred to other agencies to address.

GREATER PROTECTION FOR VICTIM SURVIVORS

CH.
7**Recommendation 20**

The Victims of Crime Commissioner should report annually on *Victims' Charter Act 2006* (Vic) complaints (trends, issues, outcomes) including those received (and dealt with) by justice and victims' services agencies and those received by the Victims of Crime Commissioner:

- a. to the Aboriginal Justice Caucus (to be shared with Aboriginal Community Controlled Organisations), and
- b. by amending the *Victims of Crime Commissioner Act 2015* (Vic) to include reporting to the Victims of Crime Consultative Committee.

GREATER PROTECTION FOR VICTIM SURVIVORS

CH.
7**Recommendation 21**

The *Victims of Crime Commissioner Act 2015* (Vic) should be amended at section 27(1) to provide additional referral powers to the Victims of Crime Commissioner, in the course of exercising their functions, to 'any other relevant person where it is deemed appropriate.'

STRONGER CHARTER COMPLIANCE

CH.
8**Recommendation 22**

The *Victims' Charter Act 2006* (Vic) and the *Victims of Crime Commissioner Act 2015* (Vic) should be amended to clarify the Victims of Crime Commissioner's role to:

- a. provide guidance and information to justice and victims' services agencies about implementation of the *Victims' Charter Act 2006* (Vic), and
- b. monitor justice and victims' services agencies compliance of the *Victims' Charter Act 2006* (Vic) including reporting annually on:
 - o justice and victims' services agencies compliance with the *Victims' Charter Act 2006* (Vic)
 - o complaints received about justice and victims' services agencies non-compliance with the principles of the *Victims' Charter Act 2006* (Vic), and
 - o the effectiveness of policies and plans of the Secretary, Department of Justice and Community Safety and justice and victims' service agencies to promote the *Victims' Charter Act 2006* (Vic).

STRONGER CHARTER COMPLIANCE

CH.
8

Recommendation 23

The *Victims' Charter Act 2006* (Vic) should be amended to clarify the Victims of Crime Commissioner's monitoring role, by removing the requirement in section 20(b) of the *Victims' Charter Act 2006* (Vic) for the Secretary, Department of Justice and Community Safety to monitor, evaluate and review the operation of the *Victims' Charter Act 2006* (Vic).

STRONGER CHARTER COMPLIANCE

CH.
8

Recommendation 24

The *Victims of Crime Commissioner Act 2015* (Vic) should be amended to enable the Victims of Crime Commissioner to:

- a. specify an action justice and victims' services agencies should take to meet their Victims' Charter obligations where there is evidence that the agency is not meeting their obligations under the *Victims' Charter Act 2006* (Vic)
- b. where a justice and victims' services agency has been directed to take an action and has not satisfactorily complied with the direction, the Victims of Crime Commissioner may, after providing the agency with an opportunity to respond, can issue compliance notices for serious and systemic non-compliance with the *Victims' Charter Act 2006* (Vic), and
- c. require justice and victims' services to report back on actions taken to address compliance notices within a specified time period. These notices may be made public by the Victims of Crime Commissioner.

REGULAR REVIEW TO MAINTAIN THE CHARTER'S IMPACT

CH.
10

Recommendation 25

The *Victims' Charter Act 2006* (Vic) should be amended to require an independent review of the *Victims' Charter Act 2006* (Vic) and the *Victims of Crime Commissioner Act 2015* (Vic), and the recommendations from this Review, no later than 10 years from the tabling of this Review to ensure it continues to drive cultural change as originally envisaged by Parliament. This independent review should include a review of the Victims of Crime Commissioner's complaints and compliance functions.

CHAPTER

7

Background and context

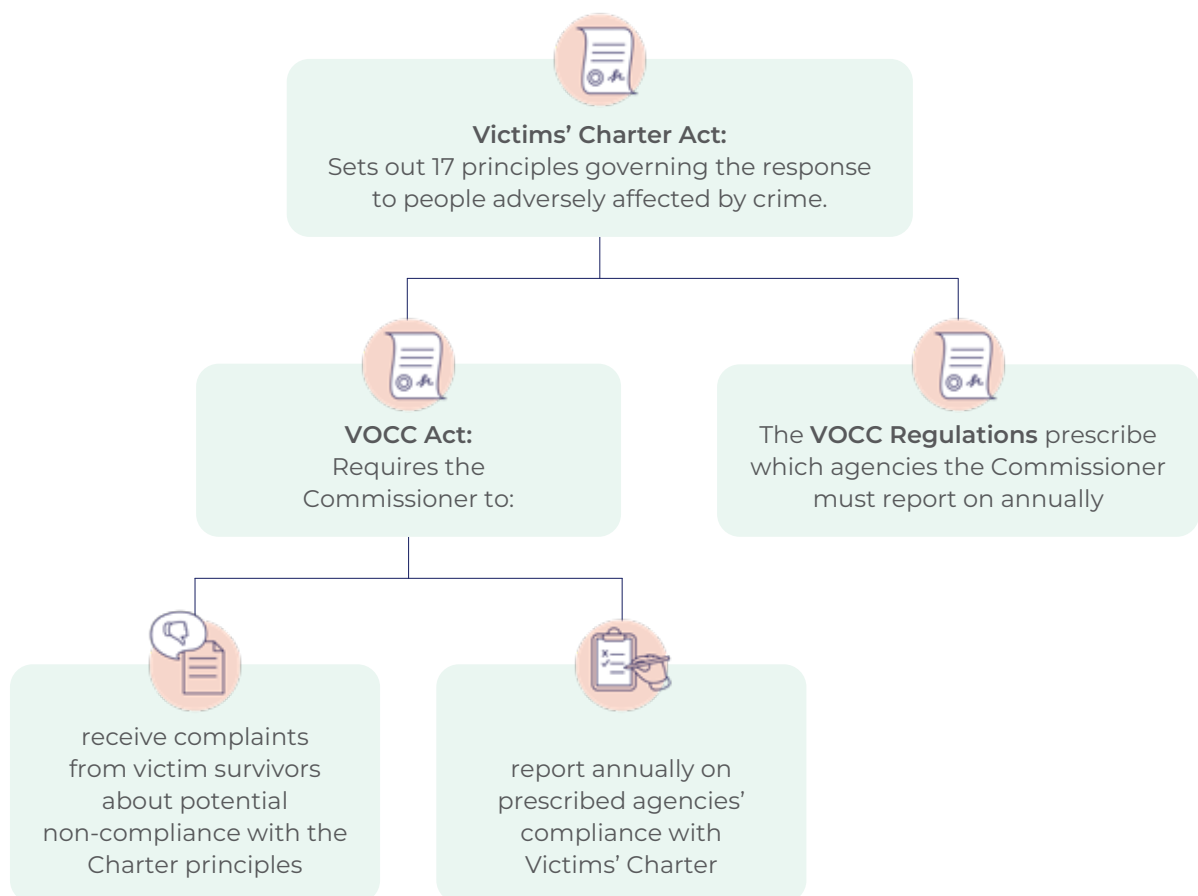


Legislative framework

The *Victims' Charter Act 2006* (Vic) (the Charter), the *Victims of Crime Commissioner Act 2015* (Vic) (the VOCC Act) and the *Victims of Crime Commissioner Regulations 2020* (Vic) (VOCC Regulations) combine to provide a framework of rights for victim survivors (see Figure 2).

When the Charter became law in 2006 it aimed to prioritise recovery for victim survivors, minimise secondary victimisation and incorporate the relevant principles outlined in the United Nations 1985 *Declaration of Basic Principles of Justice for Victims of Crime and the Abuse of Power*.³² Secondary victimisation refers to instances where a victim is further victimised or traumatised through negative experiences during the criminal justice process and/or by support organisations.³³

FIGURE 2. Legal framework for victim survivors



³² Victoria, Parliamentary Debates, Legislative Assembly, 14 June 2006, 2046 (Rob Hulls, Attorney-General).

³³ Georgina Fuller, *The Database of Victimisation Experiences* (Technical and Background Paper No 60, Australian Institute of Criminology, 11 June 2015) 1 <<https://www.aic.gov.au/sites/default/files/2020-05/tbp060.pdf>>.

The purpose of the Charter was to set out principles which represent the minimum standards that will govern responses to victim survivors of crime across criminal justice and government agencies.³⁴ The Charter would provide a 'benchmark' for developing standards and victim survivors' policies across the criminal justice system:

“Enshrining these principles in legislation provides a clear recognition by the government of victims of crime and their important role in the criminal justice process. It will form the basis for future policy development in this area.”³⁵

The intention in 2006 was to develop a framework encompassing all existing legislative rights for victim survivors, but not to broaden existing rights.³⁶

The Charter's Objects, set out in the legislation, were to:

- provide statutory recognition of victim survivors of crime and recognise the harm caused by offending
- establish principles to govern responses by the criminal justice system to victim survivors, and
- minimise secondary victimisation and improve victim survivors' experiences of the criminal justice system.³⁷

The Charter sets out 17 non-enforceable rights for victim survivors of crime, including:

- respectful treatment
- information
- protection from an accused in court
- make a victim impact statement
- privacy
- access compensation, and
- certain information about the offender.

The Charter, as originally drafted, was intended to drive cultural change in justice agencies. It did not create any independent complaints pathways or mechanism for oversight of agencies' compliance.³⁸

The second reading speech for the Charter made clear Parliament's intention for the Charter to continue to 'facilitate the *ongoing* cultural change within the criminal justice system'³⁹ (emphasis added).

The Charter sets cultural and behavioural obligations for justice and victims' services agencies when they interact with victim survivors of crime. Victim survivors are afforded special treatment by these agencies and are allowed to participate in certain parts of the justice process. One of the Objects of the Charter is to acknowledge the victim survivors' role as a participant, but not a party, to proceedings for criminal offences.⁴⁰

³⁴ Victoria, *Parliamentary Debates*, Legislative Assembly, 14 June 2006, 2046 (Rob Hulls, Attorney-General).

³⁵ Victoria, *Parliamentary Debates*, Legislative Assembly, 14 June 2006, 2045 (Rob Hulls, Attorney-General).

³⁶ Victoria, *Parliamentary Debates*, Legislative Assembly, 14 June 2006, 2045 (Rob Hulls, Attorney-General).

³⁷ Victoria, *Parliamentary Debates*, Legislative Assembly, 14 June 2006, 2045 (Rob Hulls, Attorney-General).

³⁸ Changes were made in 2018 to the Commissioner's role to provide the Commissioner with powers to receive complaints from victims who felt their Victims' Charter rights had been breached and to report on prescribed agencies by monitoring their compliance with the Victims' Charter: *Victims of Crime Commissioner Act 2015* (Vic) Pt 2 div 3A, and div 5.

³⁹ Victoria, *Parliamentary Debates*, Legislative Assembly, 14 June 2006, 2047 (Rob Hulls, Attorney-General).

⁴⁰ *Victims' Charter Act 2006* (Vic) s 4(1)(ba).

The Charter has widespread application to a diverse and large number of justice and victims' services agencies, including:

- Victoria Police
- the Office of Public Prosecutions
- WorkSafe
- Community legal centres and government-funded sexual assault services, family violence services
- victims' support services, and
- the Secretary, DJCS.

A full list of prescribed agencies can be found at [Appendix 1](#).

In addition to justice and victims' service agencies, the Charter applies to policy development and the administration of criminal justice in Victoria:

“ A person or body responsible for the development of criminal law policy, the development of victims' services policy, the administration of criminal justice or the administration of victims' services must, where relevant, have regard to Victims' Charter principles.⁴¹

The Victims of Crime Commissioner

The first Victims of Crime Commissioner was appointed in October 2014.⁴²

The Commissioner is independent from ministers, government departments, justice agencies and the victims' services system. Under the VOCC Act, the Commissioner's functions include:

- to advocate for the recognition, inclusion, participation and respect of victims of crime by government departments, bodies responsible for conducting public prosecutions and Victoria Police⁴³
- to carry out inquiries on systemic victim of crime matters,⁴⁴ and
- to report to the Attorney-General on any systemic victim of crime matter,⁴⁵ to provide advice to the Attorney-General and government departments and agencies regarding improvements to the justice system to meet the needs of victims of crime,⁴⁶ and to perform any other functions conferred on the Commissioner by the VOCC Act or any other Act.⁴⁷

⁴¹ *Victims' Charter Act 2006* (Vic) s 18(2).

⁴² Robert Clarke, 'Victorias First Commissioner for Victims of Crime' (Media Release, 5 October 2014) <[Victoria's first Commissioner for Victims of Crime](#)>.

⁴³ *Victims of Crime Commissioner Act 2015* (Vic) s 13(1)(a).

⁴⁴ *Victims of Crime Commissioner Act 2015* (Vic) s 13(1)(b).

⁴⁵ *Victims of Crime Commissioner Act 2015* (Vic) s 13(1)(c).

⁴⁶ *Victims of Crime Commissioner Act 2015* (Vic) s 13(1)(d).

⁴⁷ *Victims of Crime Commissioner Act 2015* (Vic) s 13(1)(e).

1 Unlike Victims of Crime Commissioner roles in other Australian jurisdictions, the Commissioner does not deliver support or financial services to victim survivors. The Commissioner is an independent monitor of compliance by justice agencies and victims' services with the Charter as well as providing an independent complaints and oversight function.

The Commissioner's role is to ensure that victim survivors of crime are 'heard' and respected by justice agencies and victims' services, and that these agencies and services provide safe, inclusive and trauma informed responses to all victim survivors of crime.

The Commissioner listens to the voices of victim survivors, and advocates for them.

THE VICTIMS OF CRIME CONSULTATIVE COMMITTEE

The VOCC Act also establishes the Victims of Crime Consultative Committee (Committee).⁴⁸ The Committee's role is to advise on policy, practices, and system reforms that can enhance the experience of victims of crime, and to promote the interests of victims within the justice system.⁴⁹ The Committee must also have regard to, and act in a manner consistent with, the principles of the Charter.⁵⁰ The Committee's work aims to elevate the voices of victims and ensure their interests are considered in the justice system. The Committee does this by providing advice to the Attorney-General and Minister for Victim Support⁵¹ on matters related to victims of crime, including service delivery, legislative reform, and the administration of justice.

Independently chaired,⁵² the Committee includes members of the community who are victims of crime,⁵³ the Commissioner, representatives from Victoria Police, the Office of Public Prosecutions, the judiciary, the Adult Parole Board⁵⁴ and victim of crime services.⁵⁵

⁴⁸ *Victims of Crime Commissioner Act 2015* (Vic) s 31.

⁴⁹ *Victims of Crime Commissioner Act 2015* (Vic) s 32(1).

⁵⁰ *Victims of Crime Commissioner Act 2015* (Vic) s 32(2).

⁵¹ The General Orders list which ministers have responsibility for all current Victorian legislation. The General Orders (effective 23 May 2025) provide that the Attorney-General administers section 21 of the *Victims' Charter Act 2006* (Vic) and that the Act is otherwise administered by the Minister for Victims: [Supplement-to-the-General-Order.pdf](#).

⁵² *Victims of Crime Commissioner Act 2015* (Vic) s 33.

⁵³ *Victims of Crime Commissioner Act 2015* (Vic) s 39.

⁵⁴ *Victims of Crime Commissioner Act 2015* (Vic) s 38.

⁵⁵ *Victims of Crime Commissioner Act 2015* (Vic) s 40.

Victim survivors – what we know

Victim survivors of crime represent every part of our community. They do not choose to become a victim survivor.

This Review has sought to understand more about the range of experiences of victim survivors, to understand whether the Charter benefits them.

In Victoria in the year ending March 2025, there were 223,766 unique victims of crime. Unique victims is the count of persons that are defined as a victim (not counting instances of victimisation).

The number of unique victims in Victoria has grown steadily from 186,472 over the past 10 years (20%).⁵⁶

TABLE 1. Increase in unique victims

	Unique victims of crimes
Apr 2015 - Mar 2016	186,472
Apr 2016 - Mar 2017	197,510
Apr 2017 - Mar 2018	173,544
Apr 2018 - Mar 2019	168,551
Apr 2019 - Mar 2020	188,829
Apr 2020 - Mar 2021	148,278
Apr 2021 - Mar 2022	144,797
Apr 2022 - Mar 2023	158,387
Apr 2023 - Mar 2024	181,688
Apr 2024 - Mar 2025	223,766

⁵⁶ Crime Statistics Agency customised data request based on data for the year ending 31 March 2025.

Not only has the number of victim survivors increased, so has the justice system's understanding of the impact of crime – on many victim survivors who participate in the system.

This has driven key events and reforms for victim survivors that have occurred since the Charter's inception.

Victim survivors are diverse and have a diverse range of needs. They also have differing experiences and views on many of the issues they were consulted on for this Review.

There is a growing appreciation of victim survivors' diverse needs and the significant barriers experienced by certain victim cohorts, including Aboriginal victim survivors, children and young people, victim survivors with a disability and those from cultural and linguistically diverse backgrounds.

Today, we better understand the importance of cultural safety for Aboriginal victim survivors and the importance of ensuring that victims' rights are accessible to all victim survivors regardless of their circumstances.

Key events and reforms for victim survivors

Since the Charter began, several key reports have highlighted issues for victim survivors and advocated for increased rights to improve their experience of the justice system.

These are listed in [Appendix 2](#).

This Review

THE REVIEW ENSHRINED IN LAW

Under section 29A of the VOCC Act, the Commissioner is required to review the operation of the Charter and its benefits for victims (the Review).

The legislative requirement to review the Charter came from a recommendation of the Victorian Law Reform Commission (VLRC) in its report, *The role of victims of crime in the criminal trial process* (VLRC's 2016 report).⁵⁷

While not a review of the Charter, the VLRC's 2016 report closely examined the operation of the Charter. Recommendation 14 of the VLRC's 2016 Report recommended that the Commissioner lead a comprehensive review of the Charter no later than five years after the commencement of reforms recommended in the VLRC's report.⁵⁸

The *Victims and Other Legislation Amendment Act 2018* (Vic) amended the VOCC Act to require the Commissioner to review the operation of the Charter (the Review).⁵⁹ The Commissioner was required to commence the Review no later than 4 November 2024⁶⁰ and to report to the Attorney-General by 7 September 2025.

One of the recommendations of this Review is that the Government create a mechanism to ensure regular, independent reviews of the Charter, its operation and benefit to victim survivors ([Recommendation 25](#)).

⁵⁷ Victorian Law Reform Commission, *The Role of Victims of Crime in the Criminal Trial Process* (Report No 34, August 2016) 83 (Recommendation 13) <https://www.lawreform.vic.gov.au/wp-content/uploads/2021/07/VLRC_Victims-Of-Crime-Report-W.pdf>.

⁵⁸ Victorian Law Reform Commission, *The Role of Victims of Crime in the Criminal Trial Process* (Report No 34, August 2016) 83 <https://www.lawreform.vic.gov.au/wp-content/uploads/2021/07/VLRC_Victims-Of-Crime-Report-W.pdf>.

⁵⁹ *Victims of Crime Commissioner Act 2015* (Vic) s 29A.

⁶⁰ The Commissioner released Terms of Reference for the review on the Commissioner's website on 4 November 2024 as per the legislative requirement: <Victims' Charter Review - Terms of reference | Victims of Crime Commissioner>.

Review methodology

The Review was conducted in accordance with section 29A of the VOCC Act and within available resources.

The Review methodology encompasses victim survivor engagement, stakeholder engagement and research, data and information gathering phase (including the development of a Consultation Paper and written submissions). The Commissioner established a Steering Committee to support the Review and sought external advice on some elements of its findings and recommendations.

VICTIM SURVIVOR ENGAGEMENT

Many victim survivors took part in the review and participated with enthusiasm and commitment. Victim survivor engagement was critical and a significant endeavour for the Commissioner. The experience of meeting with a variety of victim survivors was both insightful and powerful, and in many cases their feedback was consistent. The Commissioner appreciates the generosity and dignity of the many victim survivors who shared their experiences and ideas for reform.

The Commissioner travelled across Victoria and saw first-hand the vital work of Victim Assistance Programs and specialist legal and family violence organisations. These organisations offered the Commissioner a warm welcome and created a supportive environment for authentic and detailed discussion about the Charter and the issues that victim survivors continue to face in Victoria.

The Commissioner appreciates the effort of victim survivors who provided written submissions on various aspects of the operation of the Charter.

THE VOICES OF VICTIM SURVIVORS

The Commissioner initiated an anonymous online survey to ascertain victim survivors' views about the Charter. The survey was available via a link on the Commissioner's website from 19 November 2024 until 31 March 2025. The Commissioner acknowledges and thanks the many organisations who forwarded the survey throughout their networks.

The Commissioner received 95 responses to the survey. An additional three victims logged into the portal but were unable to complete the survey due to not consenting to their information being used.

In Victoria in the year ending March 2025, there were 223,766 unique victims of crime.⁶¹ The 95 people surveyed represents a small but important number of victim survivors.

⁶¹ Crime Statistics Agency customised data request based on data for the year ending 31 March 2025.

As with the Systemic Inquiry⁶² this is a small number of victim survivors' responses and cannot be considered a representative sample of all victims of crime in Victoria. However, the Commissioner's role is to give victim survivors the greatest opportunity to have their voices heard. Also, crime victimisation is complex. No two victim survivors' experiences are the same.

The survey was designed to be as simple as possible for victims to complete. For this reason, the Commissioner did not require respondents to identify the relevant jurisdiction or prosecutorial agency of a criminal matter. This is because some victim survivors of crime do not know what jurisdiction their matter was prosecuted in and do not distinguish between various justice agencies involved. Accordingly, the survey does not distinguish between crimes heard in the summary or indictable jurisdictions and therefore between agencies prosecuting the matters. Some victim survivors (in free text answers) did provide more specific information about which prosecuting agency had managed their case. Regardless, the quantitative data validly represents the voice of victim survivors who interact with the Commissioner's office and experienced non-compliance with the Charter.

Ideally, the Commissioner would be funded to have a mechanism in place to enable victim survivors to give continuous feedback about their experience and provide the Commissioner with valuable data.

CONSULTATIONS AND INTERVIEWS WITH VICTIM SURVIVORS

The Commissioner's office met with a number of lived experience groups including:

- Victims of Crime Consultative Committee
- Commissioner's Lived Experience Advisory Group
- Victim Survivors' Advisory Council
- Women, Families and Victims Collaborative Working Group of the Aboriginal Justice Forum (overseeing key *Burra Lotjpa Dunguludja* (Aboriginal Justice Agreement Phase 4) initiatives and emerging strategic projects arising from the Aboriginal Justice Forum victim survivors)
- Women with Disabilities Victoria – Experts by Experience
- inTouch NOOR Victim Survivor Advocates
- Commission for Children and Young People Youth Council members, and
- Commissioner's Lived Experience Experts Network Youth representatives.

The Commissioner's office also conducted 15 individual interviews with victim survivors.

⁶² The Report *Silenced and Sidelined: Systemic inquiry into victim participation in the justice system* included a relatively small number of responses (156 responses) which could not be considered a representative sample of all victims of crime in Victoria: Victims of Crime Commissioner, *Silenced and Sidelined: Systemic inquiry into victim participation in the justice system* (Report, November 2023) 51 <[silenced-and-sidelined_systemic-inquiry-into-victim-participation.pdf](#)>.

CONSULTATIONS WITH JUSTICE AND VICTIMS' SERVICES STAKEHOLDERS

The Commissioner released a Consultation Paper on 19 November 2024 inviting written submissions by 17 January 2025. Following a number of requests, the submission deadline was extended to 17 February 2025. The Consultation Paper set out 27 consultation questions, against five key areas relating to the operation of the Charter for the benefit of victim survivors.

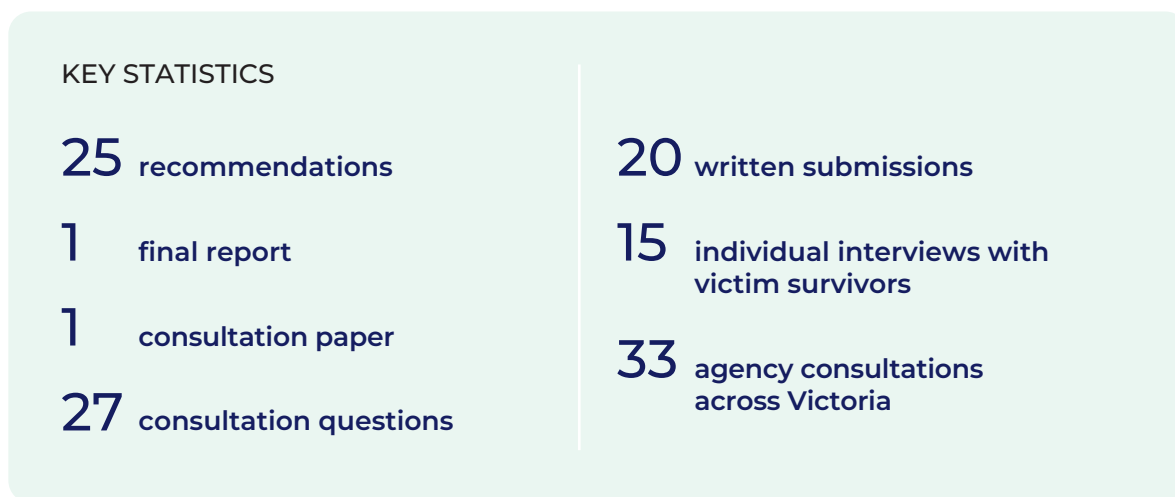
Justice and victims' services organisations were advised of the Consultation Paper via direct correspondence and e-newsletters. The Consultation Paper was publicly available on the Commissioner's website.⁶³ The Commissioner received 20 written submissions.

Between October 2024 and May 2025, the Commissioner also met with a number of stakeholders to discuss key issues. The Commissioner is grateful for the time and effort of so many stakeholders who made themselves available to contribute to the Review either by attending in person consultations or providing thoughtful and engaging written submissions. The Commissioner also acknowledges the contributions of colleagues in the National Victims of Crime Working Group who shared their experiences of supporting and advocating for victims of crime across Australia.

During stakeholder meetings and forums across Victoria (including regional Victoria), the Commissioner heard from 33 agencies and organisations including:

- Victims of Crime Consultative Committee
- Roundtable Victoria Legal Aid and Community Legal Centres
- Bendigo Region – Centre Against Sexual Assault Central Victoria, Sexual Offences and Child Abuse Investigation Team Victoria Police, Child Protection, Victims' Assistance Program, local family violence service (Annie North), Community Legal Centre (ARC Justice) and the Loddon Campaspe Multicultural Service
- Barwon Region – sexual assault services, family violence services, Victim Assistance Program and Barwon Multidisciplinary Centre representatives
- Warrnambool South West Region – sexual assault services, family violence services, Victim Assistance Program and specialist victims' legal service
- Wimmera Region – sexual assault services, family violence services, Victim Assistance Program and Orange Door
- Victim services' agency staff
- Women, Families and Victims Collaborative Working Group
- Victoria Police – Investigation and Family Violence; Prosecution and Legal Services
- National Victims of Crime Working Group – all state and territory Victims of Crime Commissioner counterparts
- Victim Witness Assistance Service, Office of Public Prosecutions, and
- WorkSafe Family Liaison.

⁶³ Victims of Crime Commissioner (Vic), *Victims' Charter Review Consultation Paper* (November 2024) <<https://victimsofcrimecommissioner.vic.gov.au/media/tzyhubuo/victims-charter-review-consultation-paper.pdf?id=vqAuchw-EUu tb5QB1oVuJFo8CNLwjAlltpZ3FMzhdNdURjJXRDA5NkRFRFIVUJDM0JGUTVSVFhIUS4u>>.

FIGURE 3. Review at a glance

GATHERING RESEARCH, DATA AND INFORMATION

As noted in the Terms of Reference, in conducting the Review the Commissioner considered relevant findings from other reviews or inquiries, including findings of the Systemic Inquiry.⁶⁴

The Commissioner also:

- examined the body of existing research relating to the operation of the Charter, which has been considered by several reviews and inquiries following the VLRC's 2016 report
- examined the operation of charters or similar legislation in other jurisdictions, and
- considered the Charter compliance reporting and complaints data publicly released by the Commissioner in annual reports.

DEVELOPING RECOMMENDATIONS

The Commissioner recognises the importance of a continued engagement approach, acknowledging the time and contribution of the lived experience victim survivors at all stages of the Review. Engagement for the Review included:

- Prior to Review: the Commissioner consulted with the Commissioner's Lived Experience Advisory Group on the draft public victim survivors' survey and how best to engage with victim survivors about the Review.
- During Review: the Commissioner consulted on several occasions with the Commissioner's Lived Experience Advisory Group, the Victims of Crime Consultative Committee, and separately with the victim representatives of the Victims of Crime Consultative Committee about their experiences of the Charter.
- Post Review public release: the Commissioner will communicate with lived experience groups about the recommendations for reform.

⁶⁴ Victims of Crime Commissioner, *Silenced and Sidelined: Systemic inquiry into victim participation in the justice system* (Report, November 2023) <[silenced-and-sidelined_systemic-inquiry-into-victim-participation.pdf](#)>.

The Systemic Inquiry recommendations adopted in this Review

The Systemic Inquiry made 55 recommendations focusing on victim survivor participation in the justice system.⁶⁵ That inquiry was led by the then Commissioner Fiona McCormack.

It made a wide range of recommendations, including updating existing Charter principles. Systemic Inquiry recommendations relevant to this Review are:

- Increasing the consultation requirements in section 9A, 9B and 9C of the Charter to all prosecuting agencies in relation to crimes against the person (Systemic Inquiry recommendation 1).
- Establishing an Aboriginal Social Justice Commissioner to address systemic barriers to participation for Aboriginal peoples at (Systemic Inquiry recommendation 11).
- Expanding section 12 of the Charter in relation to safety in court for victim survivors (Systemic Inquiry recommendation 26).
- Requiring victim survivors, via a right in the Charter, to be informed about sentence indication applications. Also, to give victim survivors the opportunity to provide victim impact information to the prosecution so that it can be provided to the court at a sentence indication hearing (Systemic Inquiry recommendations 36 and 37).
- Strengthening section 10 of the Charter, relating to bail. Require prosecuting authorities to provide specific information about victim survivors and remove the proactive requirement for victim survivors to request information about bail (Systemic Inquiry recommendation 45).
- Requiring victim survivors to be informed, via a Charter right, about restorative justice options, and to be referred at an appropriate opportunity (having regard to their support needs and the progress of any criminal justice proceedings) (Systemic Inquiry recommendation 46).
- Establishing clear rights and entitlements in the Charter for victim survivors during diversion processes in the Children's and Magistrates' Courts (Systemic Inquiry recommendation 48).
- Enshrining the rights relating to victim information, notification and the right to make a Victim Report under the *Crimes (Mental Impairment and Unfitness to be Tried) Act 1997* (Vic) in the Charter (Systemic Inquiry recommendation 49).
- Expanding section 17 of the Charter so that eligible victim survivors are required to be provided with tailored information about their eligibility for the Victims Register and be referred by a prosecuting agency to the Victims Register at sentencing (Systemic Inquiry recommendation 50).

At the time of preparing this Review, the Government has not responded to the Systemic Inquiry.

⁶⁵ Victims of Crime Commissioner, *Silenced and Sidelined: Systemic inquiry into victim participation in the justice system* (Report, November 2023) <[silenced-and-sidelined_systemic-inquiry-into-victim-participation.pdf](#)>.

CHAPTER

2

Increasing Charter awareness



“ Not once did I hear that I had rights as a victim.⁶⁶

The evidence from this Review about awareness of the Charter has been overwhelming, consistent and uncontroversial. Eighty per cent of victim survivors surveyed as part of this Review said they had not been told about the Charter after experiencing a crime.

Victim survivors have low to no awareness of the Charter

The Commissioner heard from many victim survivors that they had no knowledge at all about the Charter or their rights and entitlements:

“ I was not informed of the Charter by anyone. I found it on my own.⁶⁷

“ It would have been so good to know about VOCC and Charter at the time I was considering reporting.⁶⁸

“ Had never come across the Charter before...I had no information, background and knowledge about my entitlements at the time.⁶⁹

This is consistent with the Systemic Inquiry which found that 75% of victims said they had not been told about the Charter.

75%

of victims said they had not been told about the Charter

In the Systemic Inquiry, surveyed victims' services agencies also reported a lack of awareness of the Charter. Fifty-seven per cent of respondents to the Commissioner's Victims' Professionals Survey said they did not believe victims were aware of:

- their rights and entitlements under the Charter
- how to access victims' services, and
- where to go if the Charter is not complied with.⁷⁰

During this Review the Commissioner heard that this lack of awareness creates an additional layer of disadvantage for victim survivors:

“ For many of us with lived experience, particularly intersectional, lived and living experience, that lack of awareness can create a whole another layer of disadvantage. Without knowing our rights, we are left more vulnerable to different harms and more likely to accept mistreatment. And (we are) less equipped to really get the justice that we need.⁷¹

⁶⁶ Consultation meeting Victims' Charter Review 2024/25 - Victim Survivors' Advisory Council.

⁶⁷ Victims of Crime Commissioner online victim survivors survey November 2024 – March 2025.

⁶⁸ Confidential victim survivor interviews February – March 2025.

⁶⁹ Consultation meeting Victims' Charter Review 2024/25 - Victim Survivors' Advisory Council.

⁷⁰ Victims of Crime Commissioner, *Silenced and Sidelined: Systemic inquiry into victim participation in the justice system* (Report, November 2023) 172 <[silenced-and-sidelined_systemic-inquiry-into-victim-participation.pdf](#)>.

⁷¹ Consultation meeting Victims' Charter Review 2024/25 - Victim Survivors' Advisory Council.

Consistent with lived experience views, the Commissioner heard during this Review that there is limited awareness of the Charter amongst victim survivors and the broader justice and victims' services sector:

“Services are not aware of the Charter and all the rights victims have. If you don't know how the Charter operates or works yourself, how is anyone going to help a victim understand their rights?”⁷²

Raising awareness of the Charter is critically important

Being unaware of the Charter makes it difficult, if not impossible, for victim survivors to be informed about their rights and entitlements, advocate for their rights and entitlements to be upheld, and identify potential non-compliance with Charter principles.⁷³

It is also difficult to drive cultural change in justice and victims' services agencies, to benefit victim survivors, where there is low awareness of the Charter. Lack of Charter awareness also adds to a general confusion for victim survivors about how the justice system works.

THE CHARTER AND RELATED SERVICES SHOULD BE PUBLIC KNOWLEDGE

“Step 1 – know about it before you are a victim of crime. Communications campaign to inform the community.”⁷⁴

The Commissioner heard from victim survivors and key stakeholders that information about the Charter should be public knowledge.⁷⁵ When the general public understands the Charter, it increases the likelihood that, where a crime takes place, the victim survivor is more aware of their rights:

“The Charter should be out there in the general community.”⁷⁶

⁷² Consultation meeting Victims' Charter Review 2024/25 - South West Region - sexual assault services, family violence services, Victim Assistance Program and specialist victims' legal service.

⁷³ Victims of Crime Commissioner, *Silenced and Sideline: Systemic inquiry into victim participation in the justice system* (Report, November 2023) 330 <[silenced-and-sideline_systemic-inquiry-into-victim-participation.pdf](#)>.

⁷⁴ Confidential victim survivor interviews February – March 2025.

⁷⁵ Consultation meeting Victims' Charter Review 2024/25 - Victim Representatives - Victims of Crime Consultative Committee; Consultation meeting Victims' Charter Review 2024/25 - Victims of Crime Commissioner's Lived Experience Advisory Group; Consultation meeting Victims' Charter Review 2024/25 - Women with Disabilities Victoria - Experts by Experience.

⁷⁶ Confidential victim survivor interviews February – March 2025.

During earlier consultation for the Systemic Inquiry, justice and victims' services agencies spoke about the need for greater public awareness of the Charter and related services to build general knowledge prior to any crime occurring:

“ Not enough members of the community know about victims' services. Anyone can become a victim of crime. It is imperative that there is a basic level of knowledge, awareness and brand recognition of victims' services among the general community. This awareness should enable victims to recall branding or names of key agencies or organisations more readily when they need to.⁷⁷

In consultations for this Review, the Victim Survivors' Advisory Council told the Commissioner that information about the Charter should be available in public spaces to promote general community knowledge.⁷⁸ A member of the Lived Experience Advisory Group suggested that 'the Charter should be advertised on buses'.⁷⁹ In Queensland, for example, information about the Charter of Victims' Rights,⁸⁰ is available in local members' electoral offices, health services and education settings.⁸¹

EXISTING PROMOTION OF THE CHARTER

The Charter requires the Secretary, DJCS (Secretary) to develop policies and plans to promote the Charter principles.⁸²

In its submission to the Review, DJCS stated that Victim Services, Support and Reform (VSSR) supports the Secretary to perform these statutory functions through the delivery of 'high quality services to victims of crime, and policy and practice advice which aims to place victims at the centre of the victim service and justice systems'.⁸³

VSSR's submission conveyed that it promotes awareness of the Charter by:

- embedding it in the public communication of its services, including through the Victims of Crime website,⁸⁴ and
- directly integrating its principles into daily operations and client interactions. For example, the Child and Youth Witness Service provides victims with a written information pack about their rights under the Charter during initial consultations.⁸⁵

⁷⁷ Victims of Crime Commissioner, *Silenced and Sidelined: Systemic inquiry into victim participation in the justice system* (Report, November 2023) 364 <[silenced-and-sidelined_systemic-inquiry-into-victim-participation.pdf](#)>.

⁷⁸ Consultation meeting Victims' Charter Review 2024/25 - Victim Survivors' Advisory Council.

⁷⁹ Consultation meeting Victims' Charter Review 2024/25 - Victims of Crime Commissioner's Lived Experience Advisory Group.

⁸⁰ In Queensland, the Charter of Victims Rights is contained in the *Victims' Commissioner and Sexual Violence Review Board Act 2024 Act* (Qld).

⁸¹ Consultation meeting Victims' Charter Review 2024/25 - National Victims of Crime Working Group.

⁸² *Victims' Charter Act 2006* (Vic) s 20(a).

⁸³ Written submission Victims' Charter Review 2024/25 – Victim Services Support and Reform, Department of Justice and Community Services.

⁸⁴ Written submission Victims' Charter Review 2024/25 – Victim Services Support and Reform, Department of Justice and Community Services.

⁸⁵ Written submission Victims' Charter Review 2024/25 – Victim Services Support and Reform, Department of Justice and Community Services.

DJCS's annual report for 2023/24 noted the following activities to promote compliance with the Charter:⁸⁶

- dedicated training programs for all Victim Services, Support and Reform staff entitled 'Our Context, Our Clients' providing foundational information on the victim services operating context, programs, policies and services, with a particular focus on the Charter and its objectives,⁸⁷ and
- advocating for the inclusion of victims' perspectives and consideration of barriers to access in the development of policy, legislation and service system reform across government by providing secretariat support to the Victims of Crime Consultative Committee.⁸⁸

The promotional activities outlined by VSSR above are valuable, but do not include measures to communicate across justice and victims' services agencies or the community. The Review found that awareness of the Charter is overwhelmingly low amongst victim survivors. This suggests that current activities have not resulted in raising the profile of the Charter. Embedding the Charter into specialist programs does not have the same impact as promotional activities directed across justice agencies in raising awareness and driving cultural change.

IMPROVING PROMOTION OF THE CHARTER

More promotion of victim survivors' rights under the Charter must occur. To address low awareness of and non-compliance with the Charter, the Secretary's promotional activities should be accelerated and designed to reach those with responsibilities for upholding the Charter, including justice and victims' services agencies.

This recognises the Secretary's responsibility for many of the justice and victims' services agencies, and the scale, systems and expertise needed to roll out effective public promotion.

Both GenWest's Survivor Advocacy Group and Victoria Legal Aid told the Commissioner that greater priority needs to be given to developing and resourcing education and awareness campaigns to better promote the Charter amongst victim survivors, agencies that work with victims and the broader community.⁸⁹

Stakeholders suggested that, as a priority, the Secretary should consider the development of promotional activities including user-friendly guides on the Charter, prepared in consultation with stakeholders.⁹⁰ The Review recommends that this consultation work include victim survivors, lived experience groups and other stakeholders.

⁸⁶ Section 21 *Victims' Charter Act* (Vic) 2006 requires the Attorney-General to report annually on the steps taken by DJCS to promote the Charter principles.

⁸⁷ Department of Justice and Community Safety (Vic), *Annual Report 2023–24* (24 October 2024) 154 <<https://files.justice.vic.gov.au/2024-10/Annual%20Report%202023-24.pdf>>.

⁸⁸ Department of Justice and Community Safety (Vic), *Annual Report 2023–24* (24 October 2024) 154 <<https://files.justice.vic.gov.au/2024-10/Annual%20Report%202023-24.pdf>>.

⁸⁹ Written submission Victims' Charter Review 2024/25 – GenWest; Consultation meeting Victims' Charter Review 2024/25 – Roundtable Victoria Legal Aid and Community Legal Centres.

⁹⁰ Written submission Victims' Charter Review 2024/25 – SASVic.

CHARTER INFORMATION SHOULD BE AVAILABLE IN DIFFERENT FORMATS

Providing information in accessible and inclusive formats is a key way to ensure that victim survivors understand and can advocate for themselves. It is also important in improving awareness and understanding of the Charter and victim survivors' rights in the broader community.

Victims' services agencies gave examples of a range of information formats to raise Charter awareness, such as an easy-read version with illustrations, online content with a read aloud function and versions in community languages.⁹¹

The Commissioner also heard that information about the Charter needs to be available in different formats including websites, QR codes, print and videos. Visual information in video format would be more engaging for young people.⁹² Information needs to account for different languages and ages as well as disability.⁹³ During consultations, stakeholders suggested that the Commissioner should create a short, plain language version of the Charter that can be easily understood by victims and the broader community.⁹⁴

“Information in a range of different formats is preferable, taking into account victims' communication preference. Receiving a brochure prompted me to do further research.”⁹⁵

“If you understand your entitlements, you know what you can do to assist in your healing. At the moment, it is not clear. Information needs to be made more succinct; not so much from the legal perspective but rather practical information about the process.”⁹⁶

Greater community awareness about the Charter and victim survivors' rights would benefit victim survivors in many ways. It would help them to understand their rights. Also, giving better and more accessible information would make it easier to navigate justice processes, including where to go, who to speak to and what they need to assist them during the process and in their recovery.

⁹¹ Written submission Victims' Charter Review 2024/25 – SASVic; Written submission Victims' Charter Review 2024/25 – GenWest; Written submission Victims' Charter Review 2024/25 – Victoria Legal Aid.

⁹² Consultation meeting Victims' Charter Review 2024/25 - Women, Families and Victims Collaborative Working Group.

⁹³ Consultation meeting Victims' Charter Review 2024/25 - Victim Survivors' Advisory Council; Consultation meeting Victims' Charter Review 2024/25 - Women with Disabilities Victoria - Experts by Experience.

⁹⁴ Written submission Victims' Charter Review 2024/25 – GenWest; Consultation meeting Victims' Charter Review 2024/25 - Victim Survivors' Advisory Council.

⁹⁵ Confidential victim survivor interviews February – March 2025.

⁹⁶ Confidential victim survivor interviews February – March 2025.

CHARTER PROMOTION FOR ABORIGINAL COMMUNITIES

During a consultation for the Review, the Women, Families and Victims Collaborative Working Group identified a 'need to get the Charter out in the community again.'⁹⁷ They told the Commissioner that education and raising awareness (including through existing local channels) is important as victim survivors do not always know what support is available or how to access it.⁹⁸ They also suggested that the expertise of the Victorian Aboriginal Education Association be engaged in the process to develop resources to disseminate in primary and secondary schools.⁹⁹

The Hume Regional Aboriginal Justice Advisory Committee (RAJAC) advised that hard copy sources of information about victim support are helpful for promoting services to Aboriginal victim survivors of crime. Educational settings, such as schools, can be good locations to place hardcopy materials. For cultural safety reasons, it is important that victim survivors can discreetly access information and support.¹⁰⁰ The Grampians RAJAC observed that promoting access to services is important, and services should be visible and active in the community, including at community events.¹⁰¹

Recommendation 1

As part of the role of the Secretary, Department of Justice and Community Safety to promote the *Victims' Charter Act 2006* (Vic), as provided at section 20(a) of the *Victims' Charter Act 2006* (Vic), the Secretary should develop a:

- a. strategy for promoting the Charter to those with responsibilities for implementing the Charter under section 18 of the *Victims' Charter Act 2006* (Vic)
- b. public awareness campaign promoting the *Victims' Charter Act 2006* (Vic), and
- c. suite of Victims' Charter information in various formats for diverse audiences

in consultation with victim survivors, lived experience groups and other stakeholders.

⁹⁷ Consultation meeting Victims' Charter Review 2024/25 - Women, Families and Victims Collaborative Working Group.

⁹⁸ Consultation meeting Victims' Charter Review 2024/25 - Women, Families and Victims Collaborative Working Group.

⁹⁹ Consultation meeting Victims' Charter Review 2024/25 - Women, Families and Victims Collaborative Working Group.

¹⁰⁰ Regional Aboriginal Justice Advisory Committees, Aboriginal Victims of Crime Strategy Development consultations, provided by Department of Justice and Community Safety for use in this Review.

¹⁰¹ Regional Aboriginal Justice Advisory Committees, Aboriginal Victims of Crime Strategy Development consultations, provided by Department of Justice and Community Safety for use in this Review.

The onus needs to be on justice and victims' services agencies to tell victim survivors about their rights

“ Telling victims about the Victims' Charter must be mandatory, not optional.¹⁰²

“ Information is power – we want to know and be informed.¹⁰³

Victim survivors and lived experience representatives consulted by the Commissioner said they wanted an active role for justice and victims' services agencies in telling them about their rights:¹⁰⁴

“ Information about the investigation and prosecution – what was going on. Victims shouldn't have to look to find information about court dates. It's important to be updated.¹⁰⁵

“ Being given information would help me not to feel so stressed all the time. Even though I'm not a party, I'm entitled not to feel so stressed because of lack of information.¹⁰⁶

“ Our brain power is diminished so we rely on services to provide information. Being informed about my rights as a victim late in the process was re-traumatising and added complexity to the situation.¹⁰⁷

“ They should have mentioned the Charter existed so I could ask for the extra help I needed.¹⁰⁸

Of the victim survivors surveyed by the Commissioner, 87% felt that all agencies (police, prosecutions, courts and victim support services) should have a role in informing them about the Charter.¹⁰⁹

¹⁰² Consultation meeting Victims' Charter Review 2024/25 - Victims of Crime Commissioner's Lived Experience Advisory Group.

¹⁰³ Consultation meeting Victims' Charter Review 2024/25 - Victim Survivors' Advisory Council.

¹⁰⁴ Consultation meeting Victims' Charter Review 2024/25 - Victim Representatives - Victims of Crime Consultative Committee; Consultation meeting Victims' Charter Review 2024/25 - Victims of Crime Commissioner's Lived Experience Advisory Group; Consultation meeting Victims' Charter Review 2024/25 - Victim Survivors' Advisory Council; Confidential victim survivor interviews February – March 2025.

¹⁰⁵ Confidential victim survivor interviews February – March 2025.

¹⁰⁶ Confidential victim survivor interviews February – March 2025.

¹⁰⁷ Consultation meeting Victims' Charter Review 2024/25 - Victim Representatives - Victims of Crime Consultative Committee.

¹⁰⁸ Consultation meeting Victims' Charter Review 2024/25 - inTouch NOOR Victim Survivor Advocates.

¹⁰⁹ Victims of Crime Commissioner online victim survivors survey November 2024 – March 2025.

The Commissioner heard that victims' services and justice agencies need to be more active in raising awareness and promoting the rights of victim survivors under the Charter¹¹⁰ and that victim survivors' rights and entitlements should be reinforced by agencies and service providers at every interaction.¹¹¹

The Commissioner heard from many victim survivors that they had to actively research and find out about their Charter rights.¹¹²

“It comes back to us about being expected to know what our rights us [are]. It shouldn't be up to us. It should be services who want to ensure our rights are met.”¹¹³

“It frustrates me and makes me feel dismissed when I have to keep chasing this (information) up myself.”¹¹⁴

Victoria Legal Aid supported increased responsibility for agencies to raise awareness of the Charter, noting that it should be part of their compliance responsibilities and suggesting that the responsibility of agencies to raise awareness should be multi-layered and reflect their capability, potential impact and resourcing.¹¹⁵

WHAT HAPPENS IN OTHER JURISDICTIONS

Various jurisdictions in Australia inform victim survivors of their rights:

- South Australia – police have an obligation to inform victim survivors of their rights by providing them with a booklet. This obligation is not legislated but rather a direction of the Police Commissioner.
- New South Wales – police provide victim survivors with a card that directs them to the Charter of Victims' Rights¹¹⁶ and information on the financial and counselling scheme. Police also email victim survivors a link to the victims' information centre on the police website, which contains information about reporting a crime, investigation and prosecution, going to court, and how to access support services.
- Australian Capital Territory – victim survivors are emailed a plain English booklet about their rights and the justice process. Agencies are required to include information about the Charter on their websites and are obligated under the Charter to promote victim survivors' Charter rights.¹¹⁷

¹¹⁰ Written submission Victims' Charter Review 2024/25 – GenWest.

¹¹¹ Consultation meeting Victims' Charter Review 2024/25 - Victim Survivors' Advisory Council; Confidential victim survivor interviews February – March 2025.

¹¹² Victims of Crime Commissioner online victim survivors survey November 2024 – March 2025.

¹¹³ Consultation meeting Victims' Charter Review 2024/25 - Women with Disabilities Victoria - Experts by Experience.

¹¹⁴ Consultation meeting Victims' Charter Review 2024/25 - Women with Disabilities Victoria - Experts by Experience.

¹¹⁵ Written submission Victims' Charter Review 2024/25 - Victoria Legal Aid.

¹¹⁶ *Victims' Rights and Support Act 2013* (NSW) s 6.

¹¹⁷ *Victims of Crime Act 1994* (ACT) s 15H.

In the United Kingdom (UK), relevant agencies have a specific role in raising awareness of the Victim's Code, their equivalent Charter. Agencies must take reasonable steps to promote awareness of the Victims' Code among users of those services and other members of the public.¹¹⁸

The UK Victim's Code also states that service providers must include information about the Code on their websites and signpost victims to the relevant pages on the government's website.¹¹⁹

BETTER COMMUNICATION OF VICTIM SURVIVORS' RIGHTS

Justice and victims' services agencies have a key role in informing victim survivors throughout the process – from the time of reporting, through the investigation and prosecution process, to applying for compensation.

The Review recommends that the Charter should require justice and victims' services agencies to promote the Charter within their organisation and to victim survivors who interact with their agency or service. This would:

- increase justice and victims' services agencies' awareness and understanding of victim survivors' rights and, in turn, strengthen their ability to inform, and advocate on behalf of victim survivors, and
- increase victim survivors' awareness of their rights from an early stage in the justice process.

Recommendation 2

The *Victims' Charter Act 2006* (Vic) should be amended:

- a. to require justice and victims' services agencies to promote awareness of the Charter within their organisation and to victim survivors who interact with their agency and or service, and
- b. so that justice and victims' services agencies report on their promotion of the Victims' Charter (within their organisation, and to victim survivors who interact with their agency and or service) in their annual report.

¹¹⁸ *Victims and Prisoners Act 2024* (UK) s 6.

¹¹⁹ *Victims and Prisoners Act 2024* (UK) s 5.

GIVING VICTIM SURVIVORS A STATEMENT WITH CLEAR AND ACCESSIBLE INFORMATION ABOUT THEIR RIGHTS

“It’s actually the role of services and anyone that you’re engaging with to educate you on your rights; providing victims with a statement of rights will help enforce that.”¹²⁰

Some victim survivors said that the Charter should include a right that, at the beginning of the process of reporting a crime, victim survivors are given information about their rights and how to make a complaint.¹²¹

The Commissioner heard from various stakeholders that justice and victims’ services agencies should be legally required to explain the Charter to victim survivors and check a victim survivor’s understanding rather than simply providing information.¹²²

“Just as accused people are read their rights, victim survivors should be informed of their full suite of rights.”¹²³

Members of GenWest’s Survivor Advocacy Group recommended that the Charter be amended to include a specific provision for victims to be told about the Charter and to be provided with a clear statement of their entitlement. They felt that this would increase the likelihood of agencies fulfilling their obligations under the Charter to notify and educate victim survivors about their rights.¹²⁴

The Federation of Community Legal Centres recommended to the Review that the DJCS develop a ‘Statement of Rights’ outlining the principles, rights and entitlements contained in the Charter. This would be accessible, trauma informed, culturally safe and available in a wide variety of accessible formats and languages.¹²⁵

The Commissioner heard that currently information about rights is not always provided in a format that victim survivors find accessible or clear. In some cases, information about rights is provided verbally at a time when victim survivors are under stress and unable to retain that important information. Statements of rights should be provided in various formats, both verbally and written (QR code, App, card for example) and at a number of points throughout the victim survivor’s interactions with agencies.

¹²⁰ Written submission Victims’ Charter Review 2024/25 – GenWest.

¹²¹ Consultation meeting Victims’ Charter Review 2024/25 – Victims of Crime Commissioner’s Lived Experience Advisory Group.

¹²² Written submission Victims’ Charter Review 2024/25 – GenWest; Consultation meeting Victims’ Charter Review 2024/25 – Wimmera Region – sexual assault services, family violence services, Victim Assistance Program, Orange Door.

¹²³ Written submission Victims’ Charter Review 2024/25 – SASVic.

¹²⁴ Consultation meeting Victims’ Charter Review 2024/25 – Victim Survivors’ Advisory Council; Written submission Victims’ Charter Review 2024/25 – GenWest.

¹²⁵ Written submission Victims’ Charter Review 2024/25 – Federation of Community Legal Centres.

EQUIVALENT STATEMENTS OF RIGHTS IN OTHER CONTEXTS

The recently enacted *Mental Health and Wellbeing Act 2024* (Vic) states that any person who is receiving a service under the Act is entitled to receive a Statement of Rights that sets out their rights under the Act and the processes which will apply when they are receiving a mental health service.¹²⁶ There is an explicit requirement that medical practitioners and health services must ‘take all reasonable steps’ to ensure individuals are given a Statement of Rights¹²⁷ and that they understand their rights set out in the Statement.¹²⁸

The *Aged Care Act 2024* (Cth) also contains a Statement of Rights which applies to older people going into aged care services.¹²⁹ The Statement of Rights includes the right to:

- independence, autonomy, empowerment and freedom of choice¹³⁰
- equitable access¹³¹
- person-centred communication, including the ability to raise concerns without risk of reprisal,¹³² and
- advocates, significant people and social connections.¹³³

Any person or agency with responsibilities under the *Aged Care Act 2024* (Cth) must also have regard to the principles¹³⁴ and the Act includes complaints pathways for people to uphold their rights.¹³⁵

Similar requirements exist in the *Supported Residential Services Regulations 2012* (Vic).¹³⁶

These laws recognise the importance of providing people, who interact with government systems, with clear and timely information about their rights relating to situations and circumstances that intimately affect them.

¹²⁶ *Mental Health and Wellbeing Act 2024* (Vic) s 25.

¹²⁷ *Mental Health and Wellbeing Act 2024* (Vic) s 37.

¹²⁸ *Mental Health and Wellbeing Act 2024* (Vic) s 39.

¹²⁹ *Aged Care Act 2024* (Cth) s 23.

¹³⁰ *Aged Care Act 2024* (Cth) s 23(1).

¹³¹ *Aged Care Act 2024* (Cth) s 23(2).

¹³² *Aged Care Act 2024* (Cth) s 23(7).

¹³³ *Aged Care Act 2024* (Cth) s 23(10).

¹³⁴ *Aged Care Act 2024* (Cth) s 26.

¹³⁵ *Aged Care Act 2024* (Cth) s 358.

¹³⁶ *Supported Residential Service (Private Providers) Regulations 2012* (Vic) Schedule 9.

HOW RECEIVING A STATEMENT OF THEIR RIGHTS WOULD BENEFIT VICTIM SURVIVORS

Victim survivors would benefit from being provided with a clear statement of their rights from the outset, or within a reasonable time after they have engaged with the justice system.

The statement of rights could also include responsible agencies listed against each Charter right. Having a responsible agency, or agencies, listed against each Charter principle or right makes it clear to victim survivors which agency is responsible to uphold the right. This also makes it clear to victim survivors who they can complain to if the right is not upheld.

Recommendation 3

The *Victims' Charter Act 2006* (Vic) should be amended to require justice and victims' services agencies to provide victim survivors with a statement of rights within a reasonable time after that victim survivor engages with the agency and or service. The statement of rights should be communicated regularly and in multiple formats, and include:

- victim survivors' rights
- obligations on justice and victims' services agencies, and
- how to make a complaint.

Agencies need improved training to better understand the Charter and victim survivors' rights

“ We do our work in line with the Charter principles but don't tie it back as effectively as we could to the Charter.”¹³⁷

“ There is a need for consistency and a single source of truth so that information is accurate, up to date and consistent.”¹³⁸

During this Review, the Commissioner heard that while many victims' services agencies are adhering to the Charter, in some cases it is not embedded within their organisation's policies and procedures¹³⁹ and the work they are doing is not being clearly linked to the Charter and its principles.¹⁴⁰

People who work with victim survivors told the Commissioner that specific Charter education and training should be mandatory for all staff working in justice and victims' services agencies to improve outcomes for victim survivors and minimise agency non-compliance with the Charter.¹⁴¹

“ It's the role of services and anyone that is working with victims to properly educate them on their rights. Staff need to have the correct knowledge and training to do that.”¹⁴²

The Commissioner heard that some agencies are already providing their staff with training programs on the Charter.¹⁴³

“ All staff are provided training about the Victims' Charter at induction. The dedicated training program ... provides foundational information on the victim service operating context, programs, policies and services, with a particular focus on the Victims' Charter and its objectives.”¹⁴⁴

During consultations this Review found that some agencies did not have the information and tools they needed to develop information and practice guidelines for staff to comply with the Charter. The Commissioner also heard that some agencies have developed their own resources, including training modules on the Charter, as part of induction processes, but there is a need for consistency and a single source of truth so that information is accurate, up to date and consistent.¹⁴⁵

¹³⁷ Consultation meeting Victims' Charter Review 2024/25 - South West Region - sexual assault services, family violence services, Victim Assistance Program and specialist victims' legal service.

¹³⁸ Consultation meeting Victims' Charter Review 2024/25 - Wimmera Region - sexual assault services, family violence services, Victim Assistance Program, Orange Door.

¹³⁹ Consultation meeting Victims' Charter Review 2024/25 - Bendigo Region - sexual assault services, SOCIT Victoria Police, Child Protection, Victim Assistance Program, family violence services, community legal service, multicultural services; Consultation meeting Victims' Charter Review 2024/25 - South West Region - sexual assault services, family violence services, Victim Assistance Program and specialist victims' legal service; Consultation meeting Victims' Charter Review 2024/25 - Barwon Region - sexual assault services, family violence services, Victim Assistance Program and Barwon Multidisciplinary Centre representatives; Consultation meeting Victims' Charter Review 2024/25 - Wimmera Region - sexual assault services, family violence services, Victim Assistance Program, Orange Door.

¹⁴⁰ Consultation meeting Victims' Charter Review 2024/25 - Wimmera Region - sexual assault services, family violence services, Victim Assistance Program, Orange Door.

¹⁴¹ Written submission Victims' Charter Review 2024/25 - GenWest.

¹⁴² Written submission Victims' Charter Review 2024/25 - GenWest.

¹⁴³ Consultation meeting Victims' Charter Review 2024/25 - Victims' services staff.

¹⁴⁴ Consultation meeting Victims' Charter Review 2024/25 - Victims' services staff.

¹⁴⁵ Consultation meeting Victims' Charter Review 2024/25 - Wimmera Region - sexual assault services, family violence services, Victim Assistance Program, Orange Door.

TRAINING ON THE CHARTER

Common training content about the Charter is clearly needed and should be prepared by the Commissioner's office, for roll out by all justice and victims' services agencies. If all agencies across the justice and victims' services sector were provided with centralised and consistent learning content on the Charter, this would lead to greater awareness and compliance to the benefit of victim survivors. In conjunction with induction training, periodic refresher training for all staff every three years is essential to ensure the Charter remains relevant for justice and victims' service agencies to support victim survivors.

The following Commissions also have a training function, similar to the function preferred by the Commissioner:

- The Victorian Equal Opportunity and Human Rights Commission (VEOHRC) provides an educational function. It uses digital modules to educate on the rights in the *Charter of Rights and Responsibilities Act 2006* (Vic), about workplace equality and sexual harassment, equal pay, and fair and inclusive workplaces.¹⁴⁶ VEOHRC also offers a 'for individuals' hub, with information ranging from 'Age', 'Mental health', 'LGBTIQA+ rights', 'Healthcare, hospitals and GPs', 'Bullying' and 'Discrimination'.¹⁴⁷
- The Disability Services Commissioner has an educational role pursuant to the *Disability Act 2006* (Vic)¹⁴⁸ to provide clinicians in the field with training programs.
- The Health Complaints Commissioner (HCC) educates both health service providers and the public regarding their responsibilities and complaints processes, under the *Health Complaints Act 2016* (Vic).¹⁴⁹ The HCC offers free, online training modules and seminars for staff at public sector organisations in relation to the *Health Records Act 2001* (Vic). They also provide training on the general Code of Conduct and successful complaint handling.¹⁵⁰

¹⁴⁶ Victorian Equal Opportunity and Human Rights Commission, 'Digital learning programs on human rights and equality' (Web Page) <<https://www.humanrights.vic.gov.au/education/online-education/>>.

¹⁴⁷ Victorian Equal Opportunity and Human Rights Commission, 'For Individuals' (Web Page) <<https://www.humanrights.vic.gov.au/for-individuals/>>.

¹⁴⁸ *Disability Act 2006* (Vic) s 16(1)(n)-(oa).

¹⁴⁹ *Health Complaints Act 2016* (Vic) s 118(1)(g)-(h).

¹⁵⁰ Health Complaints Commissioner (Vic), 'Training & Seminars' (Web Page) <<https://hcc.vic.gov.au/resources/training-seminars>>.

Recommendation 4

The functions of the Victims of Crime Commissioner should be expanded to include the development of training on the *Victims' Charter Act 2006* (Vic) that must be implemented by all justice and victims' services agencies. The Victims of Crime Commissioner should be funded to develop this training.

Recommendation 5

All justice and victims' services agencies must:

- a. have in place mandatory training on the *Victims' Charter Act 2006* (Vic) for all new staff, and mandatory refresher training for all other staff at a period of every three years that implements the training developed by the Victims of Crime Commissioner, and
- b. report annually to the Victims of Crime Commissioner on their mandatory training on the *Victims' Charter Act 2006* (Vic) including providing evidence of its implementation in their annual report.

Strengthening the Charter's role in policy development

Section 18 of the Charter requires a person or body responsible for the development of criminal law policy, victims' services policy or the administration of criminal justice or victims' services to have regard to the Charter principles.

Currently, there is no mechanism for ensuring that these people or bodies have had regard to the Charter principles during the policy and legislative development process.

Under the *Charter of Human Rights and Responsibilities Act 2006* (Vic), when a Bill is introduced into parliament it must be accompanied with a Statement of Compatibility. The Statement of Compatibility provides information about whether a Bill is compatible with human rights and, if so, how it is compatible. It must also set out the nature and extent of any incompatibility.¹⁵¹

Having a Statement of Compatibility ensures that human rights are considered in the policy development of legislation. In particular:

- departmental officers must consider human rights and justify any limitations to human rights in Cabinet documents, and
- ministers must make a statement to parliament about the compatibility of a Bill with human rights legislation.¹⁵²

If a similar 'Statement of Compatibility' process applied to the Charter, those involved in legislative policy development about justice or other reforms that affect victim survivors would need to assess whether a Bill is compatible with victim survivors' rights and principles as set out in the Charter. If any part of a Bill were incompatible with victim survivors' rights and principles, it would need to set out the nature and extent of the incompatibility.

This would provide a mechanism for significantly improving consideration of victim survivor impacts by policy makers who are responsible for developing criminal law policy, by requiring them to have regard to the Charter principles:

“ A Statement of Compatibility would codify and equalise victims' rights against other rights. It would allow for greater and earlier levels of consultations on impact for victims within the DJCS.¹⁵³

During consultation for this Review, SASVic advised that the *Charter of Human Rights and Responsibilities Act 2006* (Vic) has 'proven effective in drawing attention to rights of people accused and convicted of crimes.'¹⁵⁴ SASVic further advised that 'the rights of victim survivors should therefore be specifically considered when enacting justice system legislative reforms.'¹⁵⁵ The Commissioner heard that Victoria Police supports the introduction of a Statement of Compatibility for the Charter, advising it would:

¹⁵¹ *Charter of Human Rights and Responsibilities Act 2006* (Vic) s 28(3).

¹⁵² Michael Brett Young, *From Commitment to Culture: The 2015 Review of the Charter of Human Rights and Responsibilities Act 2006* (Department of Justice & Regulation, September 2015) 181.

¹⁵³ Consultation meeting Victims' Charter Review 2024/25 – victims' services staff.

¹⁵⁴ Written submission Victims' Charter Review 2024/25 – SASVic.

¹⁵⁵ Written submission Victims' Charter Review 2024/25 – SASVic.

“ Help set out how a Bill might best support and complement the Charter, as opposed to having legislation introduced that may act in conflict with the Charter.¹⁵⁶

Under the Charter, the Secretary, DJCS has a role in raising awareness of the Charter.¹⁵⁷ The Secretary, DJCS is well placed to develop a Statement of Compatibility process with respect to the Charter, for consideration by government. Practically, this means that where legislation relates to victim survivors of crime (including exposure draft, co-ordination comments, Cabinet Approval in Principle and Bill at Cabinet submissions and Parliamentary introduction), these processes would consider the compatibility of the proposed laws with the Charter.

This reform would embed a Charter lens in policy and legislative processes and assist the Secretary, DJCS to acquit their function to promote of the Victims' Charter.

This new approach would benefit victim survivors by increasing focus on the Charter and its aims. It improves the status of victim survivors in the creation of laws which affect them, by ensuring that their rights are considered.

Recommendation 6

The Secretary, Department of Justice and Community Safety should develop a Statement of Compatibility process, for consideration by government, with respect to the *Victims' Charter Act 2006* (Vic) where legislation relates to victim survivors (including exposure draft, co-ordination comments, Cabinet Approval in Principle and Bill at Cabinet submissions and Parliamentary introduction). This would embed a Victims' Charter lens in policy and legislative processes and assist the Secretary to acquit their function to raise awareness of the *Victims' Charter Act 2006* (Vic).

¹⁵⁶ Consultation meeting Victims' Charter Review 2024/25 – Victoria Police.

¹⁵⁷ *Victims' Charter Act 2006* (Vic) s 20(a).

CHAPTER

3 A more contemporary Charter



The purpose of this Review is to consider the benefit to victim survivors of the Charter. This chapter addresses whether the Charter remains applicable and meets current community expectations:

- Do the purpose and objects of the Charter remain relevant?
- Does the existing legal framework benefit victim survivors?

It is nearly 20 years since the Charter was introduced. During that time appreciation of victim survivors' rights has developed significantly. Royal Commissions into family violence¹⁵⁸ and responses to child sexual abuse¹⁵⁹ and various Law Reform Commission Reports¹⁶⁰ have changed the way we understand the role of victim survivors in the justice system. They have also deepened our understanding of the significant trauma suffered by victim survivors of family violence and sexual offending.

Recent advances in neuroscience have increased understanding of the significant impacts of trauma. More agencies and services have adopted trauma informed responses to support victim survivors in their recovery. Trauma informed practice requires a deep understanding of how formal processes can either support or undermine recovery and empowerment for individuals who have experienced both primary victimisation and institutional harm.¹⁶¹ Key principles of trauma informed practice include safety, trustworthiness, choice, collaboration and empowerment.¹⁶²

Along with greater understanding of the impact of offending, there is a greater appreciation within the justice system of victim survivors' diverse needs. Not all victim survivors require the same thing. Certain cohorts of victim survivors experience significant barriers when they engage with the system. These groups include Aboriginal survivors, children and young people, victim survivors with a disability and those from cultural and linguistically diverse backgrounds. Today, we better understand the importance of cultural safety for Aboriginal victim survivors.

¹⁵⁸ *Royal Commission into Family Violence: Report and Recommendations* (Final Report, March 2016).

¹⁵⁹ Board of Inquiry, *Report of the Board of Inquiry into Historical Child Sexual Abuse in Beaumaris Primary School and Certain Other Government Schools* (2024) <https://content.royalcommission.vic.gov.au/sites/default/files/2024-03/Beaumaris_Report_Digital.pdf>.

¹⁶⁰ Victorian Law Reform Commission, *Improving the Justice System Response to Sexual Offences: Report* (Report, September 2021) <https://www.lawreform.vic.gov.au/wp-content/uploads/2021/11/VLRC_Improving_Justice_System_Response_to_Sex_Offences_Report_web.pdf>; Australian Law Reform Commission, *Safe, Informed, Supported: Reforming Justice Responses to Sexual Violence* (Report 143, 6 March 2025) <<https://www.alrc.gov.au/wp-content/uploads/2025/02/JRSV-Final-Report-Book-for-Web-final-20250211.pdf>>.

¹⁶¹ Enmass, *Complaints process review and recommendations* (Internal document Victims of Crime Commissioner's office) June 2025.

¹⁶² Enmass, *Complaints process review and recommendations* (Internal document Victims of Crime Commissioner's office) June 2025.

Purpose and Objects of the Charter

The purpose and objects of legislation set out parliament's intention about what the legislation seeks to achieve. They can be used as a guide to assist in interpreting sections in legislation, particularly where there is ambiguity, to ensure the legislation is applied in the way that was intended.

The current legislative **Purpose** of the Charter is to:

- recognise principles that govern the response to persons adversely affected by crime by investigatory agencies, prosecuting agencies and victims' services agencies¹⁶³
- establish requirements for the monitoring and review of the principles set out in the Act.¹⁶⁴

The current legislative **Objects** of the Charter are to:

- recognise the impact of crime on victims, including their families, witnesses to the crime and in some cases the broader community¹⁶⁵
- recognise that all persons adversely affected by crime, regardless of whether they report the offence, should be treated with respect by all investigatory agencies, prosecuting agencies and victims' services agencies and should be offered information to enable them to access appropriate services to help with the recovery process¹⁶⁶
- recognise that a victim of crime has an inherent interest in the response by the criminal justice system to that crime, giving rise to the rights and entitlements set out in this Act and to acknowledge the victim's role as a participant, but not a party, in proceedings for criminal offences,¹⁶⁷ and
- help reduce the likelihood of secondary victimisation by the criminal justice system.¹⁶⁸

¹⁶³ *Victims' Charter Act 2006* (Vic) s 1(a).

¹⁶⁴ *Victims' Charter Act 2006* (Vic) s 1(b).

¹⁶⁵ *Victims' Charter Act 2006* (Vic) s 4(1)(a).

¹⁶⁶ *Victims' Charter Act 2006* (Vic) s 4(1)(b).

¹⁶⁷ *Victims' Charter Act 2006* (Vic) s 4(1)(ba).

¹⁶⁸ *Victims' Charter Act 2006* (Vic) s 4(1)(c).

ARE THE PURPOSE AND OBJECTS STILL RELEVANT?

The Commissioner heard from victim survivors and stakeholders that they would like the Charter to recognise:

- trauma¹⁶⁹
- cultural diversity¹⁷⁰
- intersectional needs¹⁷¹
- the need for recovery, safety and healing,¹⁷² and
- children and young people as victim survivors in their own right.¹⁷³

“ For children and young people who are told over and over again that they have no rights, the system should be challenging this.¹⁷⁴

The Commissioner also heard from stakeholders that the Charter should:

- recognise Aboriginal peoples' right to self-determination and the right to be treated culturally appropriately and safely.¹⁷⁵

“ Cultural safety, as well as self-determination, could be one of the primary points to be included as a Charter principle.¹⁷⁶

“ Language has changed a lot in 20 years – revisit language and ensure that the Charter speaks more to our mob.¹⁷⁷

- reflect victim-centred and trauma informed approaches¹⁷⁸
- acknowledge cultural safety, intersectionality and trauma,¹⁷⁹ and
- measure the impact of crime on victim survivors with data collection.¹⁸⁰

¹⁶⁹ Consultation meeting Victims' Charter Review 2024/25 - inTouch NOOR Victim Survivor Advocates.

¹⁷⁰ Consultation meeting Victims' Charter Review 2024/25 - inTouch NOOR Victim Survivor Advocates.

¹⁷¹ Consultation meeting Victims' Charter Review 2024/25 - Victim Survivors' Advisory Council.

¹⁷² Consultation meeting Victims' Charter Review 2024/25 - Victim Survivors' Advisory Council.

¹⁷³ Written submission Victims' Charter Review 2024/25- Independent Broad-based Anti-corruption Commission; Consultation meeting Victims' Charter Review 2024/25 - Victim Representatives - Victims of Crime Consultative Committee; Consultation meeting Victims' Charter Review 2024/25 - Victims of Crime Consultative Committee; Consultation meeting Victims' Charter Review 2024/25 - Barwon Region - sexual assault services, family violence services, Victim Assistance Program and Barwon Multidisciplinary Centre representatives; Consultation meeting Victims' Charter Review 2024/25 - South West Region - sexual assault services, family violence services, Victim Assistance Program and specialist victims' legal service; Consultation meeting Victims' Charter Review 2024/25 - Victim Survivors' Advisory Council; Consultation meeting Victims' Charter Review 2024/25 - Lived Experience Experts Network Youth representatives; Consultation meeting Victims' Charter Review 2024/25 - CCYP Youth Council members.

¹⁷⁴ Consultation meeting Victims' Charter Review 2024/25 - CCYP Youth Council members.

¹⁷⁵ Written submission Victims' Charter Review 2024/25 - Victorian Aboriginal Legal Service.

¹⁷⁶ Consultation meeting Victims' Charter Review 2024/25 - Women, Families and Victims Collaborative Working Group.

¹⁷⁷ Consultation meeting Victims' Charter Review 2024/25 - Women, Families and Victims Collaborative Working Group.

¹⁷⁸ Written submission Victims' Charter Review 2024/25 - SASVic.

¹⁷⁹ Written submission Victims' Charter Review 2024/25 - Victorian Aboriginal Legal Service; Written submission Victims' Charter Review 2024/25 - SASVic.

¹⁸⁰ Written submission Victims' Charter Review 2024/25 - Your Lawyer (Daryl Minter).

A MORE CONTEMPORARY PURPOSE AND OBJECTS

The Commissioner has determined that the current Purpose and Objects of the Charter no longer adequately reflect current expectations, including those of victim survivors and some justice and victims' services agencies. The Review recommends that the Charter be amended to contain a new Purpose and Objects. These should be co-designed with people who have lived experience.

Purpose

The current Purpose does not articulate that the Charter is the principal legislative mechanism for upholding victims' rights in Victoria. As currently articulated, neither the Purpose nor the Objects of the Charter state that it provides for, and aims to uphold, victims' rights. By contrast, the purpose set out in Queensland's *Charter for Victim's Rights* is to 'promote and protect victims' rights'¹⁸¹ (emphasis added).

The Purpose as drafted does not acknowledge the compliance and monitoring role of the Commissioner. The Purpose needs to be updated to accurately reflect the Commissioner's role in monitoring compliance with the Charter principles.

The Purpose of the Charter should:

- set out rights for victim survivors, which relate to:
 - their treatment by justice and victims' services agencies, and
 - their participation in justice processes
- refer to the scheme for monitoring compliance with these rights, which is overseen by the Commissioner.

Objects

The current Objects of the Charter do not reflect the need to recognise and respond to:

- trauma caused by victimisation
- the harms caused by the justice system
- the diverse range of victim survivors and victimisation experiences
- the need to prioritise safety, wellbeing, protection and recovery for victim survivors
- diversity, intersectionality and cultural safety, and
- children and young people as victim survivors in their own right.

¹⁸¹ *Victims' Commissioner and Sexual Violence Review Board Act 2024* (Qld), pt 1 s 3.

The Victim Survivors Advisory Council¹⁸² and Victoria Legal Aid recommended the Purpose and Objects for the Charter be updated through co-design with people who have lived experience so that the diverse range of victim survivors' experiences are adequately reflected.¹⁸³ The Commissioner supports this view.

The Charter Objects should recognise:

- the central role of victim survivors¹⁸⁴ and their right to be treated as a participant in justice processes¹⁸⁵
- the trauma caused by victimisation
- the harms caused by the justice system
- the diversity of victim survivors and victimisation experiences and that victim survivors' needs may vary
- the need to prioritise safety, wellbeing, protection and recovery for victim survivors and that the needs of victim survivors including their safety and wellbeing are to be protected by the Charter
- diversity and intersectionality
- the need for self-determination and cultural safety for Aboriginal victim survivors of crime
- cultural safety for multicultural communities, and
- the need to recognise children and young people as victim survivors in their own right.

Is the name of the Charter still appropriate?

“ The term “Charter” is alien. What about victims’ rights?¹⁸⁶ ”

The Commissioner heard during this Review that the name ‘Victims’ Charter’ may not be useful or accessible for victim survivors. The term ‘Charter’ was seen by some people as legalistic, particularly in the absence of the term ‘rights’ which is more commonly understood.

Some victim survivors and lived experience representatives consulted by the Commissioner suggested that the title of the legislation should be expanded with the phrase ‘Victims’ Rights’.¹⁸⁷

Similarly, the Commissioner heard from victims’ professionals that the name of the Charter was a barrier to awareness and accessibility:

“ What is a charter? Victims’ Rights Act might be more meaningful or palatable or easy to Google ... victims’ rights are easier for victims to understand rather than a “Charter”.¹⁸⁸ ”

Other States refer to the rights of victim survivors in their legislation.

¹⁸² Consultation meeting Victims’ Charter Review 2024/25 - Victim Survivors’ Advisory Council.

¹⁸³ Written submission Victims’ Charter Review 2024/25 - Victoria Legal Aid.

¹⁸⁴ *Victims of Crime Act 1994* (ACT) pt 1 s 3AA(a).

¹⁸⁵ Consistent with existing objects to recognise victim survivors as a participant but not a party: *Victims’ Charter Act 2006* (Vic) s 4(1)(ba).

¹⁸⁶ Consultation meeting Victims’ Charter Review 2024/25 - Bendigo Region - sexual assault services, SOCIT Victoria Police, Child Protection, Victim Assistance Program, family violence services, community legal service, multicultural services.

¹⁸⁷ Consultation meeting Victims’ Charter Review 2024/25 - Victims of Crime Commissioner’s Lived Experience Advisory Group.

¹⁸⁸ Consultation meeting Victims’ Charter Review 2024/25 - Barwon Region - sexual assault services, family violence services, Victim Assistance Program and Barwon Multidisciplinary Centre representatives.

TABLE 2. Comparative jurisdictions and Charter of Victims' Rights

Jurisdiction	Name	Legislation
NSW	'Charter of Victims' Rights'	Set out in Part 2 of the <i>Victims' Rights and Support Act 2013</i> (NSW)
QLD	'Charter of Victims' Rights'	Set out in Schedule 1 of the <i>Victims' Commissioner and Sexual Violence Review Board Act 2024</i> (QLD)
ACT	'Charter of Rights for Victims of Crime'	This is a separate document that sets out the rights contained in Part 3A of the <i>Victims of Crime Act 1994</i> (ACT)

THE CHARTER NEEDS A MORE RELEVANT NAME

Given the clear evidence of low awareness of the Charter, and the rights of victim survivors in Victoria, the Review considers that the Charter should be amended to incorporate 'rights' in its title and be renamed the 'Charter of Victims' Rights'.

The word and concept of 'rights' is better understood and more meaningful, particularly for victim survivors.¹⁸⁹

The term 'rights' is also better understood by the public, which will assist in raising broad community awareness of the rights of victim survivors.

Using the name *Charter of Victims' Rights* would bring Victoria's legislation in line with other Australian jurisdictions who already use the language of 'rights'.

¹⁸⁹ Written submission Victims' Charter Review 2024/25 - Peter Gamble.

Review outdated language in the Charter

As well as discussion of the terms 'Charter' and 'Rights', the Commissioner received feedback about the use of ableist or paternalistic language in the Charter. Phrases such as 'special',¹⁹⁰ 'particular needs'¹⁹¹ or 'differences'¹⁹² are outdated and no longer appropriate.

For example, SASVic told the Commissioner that 'differences' implies someone is getting additional or extra help, 'diverting from what the apparent norm requires',¹⁹³ which has a negative implication. Instead, the Charter needs to refer to a victim survivor being provided with the support they need to access the service system equitably.

Similarly, victims' professionals told the Commissioner that the Charter should no longer specify 'particular needs' of people based on 'differences' or use the term 'special'.¹⁹⁴ Rather it should convey that agencies and services will be accessible to, and respect the rights of, *all* people adversely affected by crime.¹⁹⁵

It is clear that words and phrases such as 'special',¹⁹⁶ 'particular needs'¹⁹⁷ and 'differences'¹⁹⁸ are no longer appropriate.

In addition, the Charter uses the phrase 'deal with' that victim in relation to victim impact statements.¹⁹⁹ This should be amended to 'working with' that victim, which has a less negative connotation.

The Review recommends that the Charter be updated to reflect more inclusive language.

Recommendation 7

The *Victims' Charter Act 2006* (Vic) should be amended to:

- a. reflect a new Purpose and Objects, co-designed with people who have lived experience
- b. be named the *Charter of Victims' Rights*, and
- c. reflect more inclusive language.

¹⁹⁰ *Victims' Charter Act 2006* (Vic) s 7A 'Special treatment'.

¹⁹¹ *Victims' Charter Act 2006* (Vic) s 6(2).

¹⁹² *Victims' Charter Act 2006* (Vic) s 6(2).

¹⁹³ Written submission Victims' Charter Review 2024/25 – SASVic.

¹⁹⁴ Consultation meeting Victims' Charter Review 2024/25 - Bendigo Region - sexual assault services, SOCIT Victoria Police, Child Protection, Victim Assistance Program, family violence services, community legal service, multicultural services; Consultation meeting Victims' Charter Review 2024/25 - South West Region - sexual assault services, family violence services, Victim Assistance Program and specialist victims' legal service.

¹⁹⁵ Consultation meeting Victims' Charter Review 2024/25 - Bendigo Region - sexual assault services, SOCIT Victoria Police, Child Protection, Victim Assistance Program, family violence services, community legal service, multicultural services.

¹⁹⁶ *Victims' Charter Act 2006* (Vic) s 7A 'Special treatment'.

¹⁹⁷ *Victims' Charter Act 2006* (Vic) s 6(2).

¹⁹⁸ *Victims' Charter Act 2006* (Vic) s 6(2).

¹⁹⁹ *Victims' Charter Act 2006* (Vic) s 13 (1A).

THE VOCC ACT AND VICTIMS' CHARTER ACT – DO THEY WORK WELL TOGETHER?

“It is a significant gap that the Victims' Charter has not yet been amended to reflect the current role of the VOCC. Legislative recognition of the VOCC's role is important so that roles and functions are made as transparent as possible for victim survivors and the broader community.”²⁰⁰

Victim survivors' rights were established in the Charter. Almost 10 years later the position of Victims of Crime Commissioner was provided for in the VOCC Act. While the Commissioner is required to have regard to the Objectives of the VOCC Act and the Objects of the Charter,²⁰¹ there is only one provision in the Charter²⁰² which acknowledges the relationship between the two Acts or the functions and powers of the Commissioner.²⁰³

Stakeholders spoke about the importance of amending the Charter to adequately reflect the role of the Commissioner:

“As the Victims' Charter Act was written before the establishment of the Victorian Victims of Crime Commissioner, the legislation should be updated to include the role and associated responsibilities of the Commissioner.”²⁰⁴

“Victoria Legal Aid support the Charter being amended to set out the role of the VOCC to make it clear the Charter is monitored by the VOCC.”²⁰⁵

The Charter should refer to the Commissioner's role. This would provide clarity to victims and agencies that the Commissioner is responsible for overseeing justice and victims' services agencies' compliance with the Charter.

The VOCC Act requires the Commissioner to report annually on 'prescribed agencies compliance' with the Charter.²⁰⁶ These 'prescribed agencies' are listed in the VOCC regulations. The Charter does not, however, currently refer to 'prescribed agencies' but rather 'investigatory', 'prosecuting' and 'victims' services' agencies. Amending the Charter so it defines prescribed agencies would provide greater clarity and consistency between the two Acts.

²⁰⁰ Written submission Victims' Charter Review 2024/25 – SASVic.

²⁰¹ *Victims of Crime Commissioner Act 2015* (Vic) s 14.

²⁰² Section 19A refers to the victim's rights to seek review of a complaint to the Commissioner: *Victims' Charter Act 2006* (Vic) s 19A.

²⁰³ *Victims of Crime Commissioner Act 2015* (Vic) s 13.

²⁰⁴ Written submission Victims' Charter Review 2024/25 – Safe and Equal.

²⁰⁵ Written submission Victims' Charter Review 2024/25 – Victoria Legal Aid.

²⁰⁶ *Victims of Crime Commissioner Act 2015* (Vic) s 28(1A)(a).

COMBINING THE VOCC ACT AND VICTIMS' CHARTER ACT

The Commissioner sees significant benefit to justice and victims' services agencies, and to victim survivors, of combining the Charter and the VOCC Act into a single piece of legislation.

Arrangements for monitoring and taking complaints about Charter non-compliance would be more accessible and user-friendly for victim survivors, justice and victims' services agencies if combined in one Act. For example, to understand the complaints process, victim survivors, justice and victims' services agencies must begin with the Charter to confirm if they are first eligible to make a complaint. They must then move to the VOCC Act to understand the steps involved in making a complaint and the powers available to the Commissioner when determining the outcome of a complaint. This disconnection undermines the operation of the Charter.

A combined Act would also resolve any potential duplication of the Commissioner's functions and powers in relation to the Charter (at section 13 of the VOCC Act) and those of the Secretary, DJCS (at section 20 of the Charter).

Having one combined Act aligns with other Australian states equivalent legislation (ACT, NSW, SA and QLD).

Recommendation 8

The *Victims of Crime Commissioner Act 2015* (Vic) and the *Victims' Charter Act 2006* (Vic) should be consolidated into one modernised Act that includes the recommendations made in this Review and ensures the Victims' Charter operates effectively.

CHAPTER

4

Updating the Charter

During this Review, the Commissioner heard that the Charter is no longer meeting modern expectations. Rather, many victims' services agencies have practices, procedures and approaches that have outgrown the Charter and go beyond the Charter's basic requirements or minimum standards.

The Commissioner heard that information about victim survivors' rights needs to take into account their different communication needs and preferences and should be trauma informed.

In particular, the Commissioner heard from victim survivors that they would like the Charter to:

- be clearer and simpler²⁰⁷
- use rights-based language,²⁰⁸ and
- better reflect and address victim survivors' diverse needs.²⁰⁹

This chapter explores the views of victim survivors, and justice and victims' services agencies on how the Charter can be updated to ensure that it better meets the expectations of victim survivors and operates more effectively.

During consultation, stakeholders were asked whether the 17 Charter principles were:

- accessible and easy to understand
- appropriate and meeting victim survivor needs, and
- whether any principles need to be strengthened or whether new principles were required.

²⁰⁷ Consultation meeting Victims' Charter Review 2024/25 - inTouch NOOR Victim Survivor Advocates; Consultation meeting Victims' Charter Review 2024/25 - Victim Representatives - Victims of Crime Consultative Committee.

²⁰⁸ Consultation meeting Victims' Charter Review 2024/25 - Victims of Crime Commissioner's Lived Experience Advisory Group.

²⁰⁹ Written submission Victims' Charter Review 2024/25 - Victorian Aboriginal Legal Service; Written submission Victims' Charter Review 2024/25 - SASVic.

Improving the Charter principles to benefit victim survivors

MAKING THE CHARTER PRINCIPLES EASIER TO UNDERSTAND

Victim survivors and lived experience representatives consulted during the Review made the following observations regarding challenges they face in accessing the Charter:

- the Charter is 'difficult to understand'²¹⁰ is 'not an easy read'²¹¹ and is 'hard going'²¹²
- victim survivors want language, expressed as rights, which can be set out on one page²¹³
- the Charter is too long, confusing and full of legal jargon²¹⁴
- the Charter principles need to be easier to understand so that practitioners can comply with them²¹⁵
- the Charter needs a simple, accessible statement of the rights,²¹⁶ and
- simplifying the Charter might help increase awareness.²¹⁷

An example of a simple, accessible statement of rights is the *Code of Practice for Victims of Crime* (England and Wales). This has been produced in an easy read English format and a format specifically for victim survivors under eighteen years old.²¹⁸ The easy read version of the Code of Practice features clear, plain language and each section uses simplified victims' rights headings.

CLEARLY SETTING OUT VICTIM SURVIVORS' RIGHTS

“ There are too many principles. You could have high level principles and then include more specific actions underneath these. Umbrella concept – start with high level, such as respect, access etc and then drill down.”²¹⁹

There are currently four broad categories of Charter principles. These relate to:

- respectful and special treatment
- information and/or referral to services
- protection/privacy, and
- participation.

²¹⁰ Consultation meeting Victims' Charter Review 2024/25 - inTouch NOOR Victim Survivor Advocates.

²¹¹ Consultation meeting Victims' Charter Review 2024/25 - Victim Representatives - Victims of Crime Consultative Committee.

²¹² Consultation meeting Victims' Charter Review 2024/25 - Victim Survivors' Advisory Council.

²¹³ Consultation meeting Victims' Charter Review 2024/25 - Victims of Crime Consultative Committee.

²¹⁴ Written submission Victims' Charter Review 2024/25 – GenWest; Consultation meeting Victims' Charter Review 2024/25 - Bendigo Region - sexual assault services, SOCIT Victoria Police, Child Protection, Victim Assistance Program, family violence services, community legal service, multicultural services.

²¹⁵ Consultation meeting Victims' Charter Review 2024/25 - Bendigo Region - sexual assault services, SOCIT Victoria Police, Child Protection, Victim Assistance Program, family violence services, community legal service, multicultural services; Consultation meeting Victims' Charter Review 2024/25 - Barwon Region - sexual assault services, family violence services, Victim Assistance Program and Barwon Multidisciplinary Centre representatives.

²¹⁶ Written submission Victims' Charter Review 2024/25 - Safe and Equal; Written submission Victims' Charter Review 2024/25 – SASVic; Consultation meeting Victims' Charter Review 2024/25 - Barwon Region - sexual assault services, family violence services, Victim Assistance Program and Barwon Multidisciplinary Centre representatives.

²¹⁷ Consultation meeting Victims' Charter Review 2024/25 - Victims of Crime Consultative Committee.

²¹⁸ Ministry of Justice (UK), *Code of Practice for Victims of Crime in England and Wales* (Policy Document, November 2020) <<https://assets.publishing.service.gov.uk/media/60620279d3bf7f5ceaca0d89/victims-code-2020.pdf>>.

²¹⁹ Consultation meeting Victims' Charter Review 2024/25 – Victims' services staff.

However, the principles are not currently set out in this grouped way. Some stakeholders suggested the Charter would benefit from having rights simplified under key themes with a high level ‘umbrella’ right.²²⁰ This would provide clarity and increase readability. As an example, the Canadian ‘Victims Bill of Rights’ has a short (two-page) dedicated ‘Rights’ section in the legislation, which clearly sets out victims’ rights under these clear headings:

- information²²¹
- protection²²²
- participation²²³
- restitution.²²⁴

CHARTER PRINCIPLES SHOULD BE IN THE ‘SCHEDULE’ TO THE CHARTER

The Charter does not include a standalone charter of rights. These rights are instead set out in Part 2 and entitled: ‘Charter principles governing response to victims and persons adversely affected by crime.’

The Commissioner heard that setting out the Charter rights in a schedule to the Act – a separate, stand-alone section of the Act – would enable the rights to be clearly listed and easily extracted from the legislation and transferred into plain English information.²²⁵ For example, in Queensland and Western Australia, Charter rights are set out in the schedule to the legislation.²²⁶ In England and Wales, rights for victim survivors are set out in a code of practice made under the relevant legislation, and in accessible formats.²²⁷ A similar approach should be adopted in Victoria.

²²⁰ Consultation meeting Victims’ Charter Review 2024/25 - Bendigo Region - sexual assault services, SOCIT Victoria Police, Child Protection, Victim Assistance Program, family violence services, community legal service, multicultural services; Consultation meeting Victims’ Charter Review 2024/25 – Victims’ services staff.

²²¹ Canadian Victims Bill of Rights (which sits in the *Victims Bill of Rights Act*, SC 2015, c 13, ss 6-8).

²²² Canadian Victims Bill of Rights (which sits in the *Victims Bill of Rights Act*, SC 2015, c 13, ss 9-13).

²²³ Canadian Victims Bill of Rights (which sits in the *Victims Bill of Rights Act*, SC 2015, c 13, ss 14-15).

²²⁴ Canadian Victims Bill of Rights (which sits in the *Victims Bill of Rights Act*, SC 2015, c 13, ss 16-17).

²²⁵ Written submission Victims’ Charter Review 2024/25 – SASVic.

²²⁶ *Victims’ Commissioner and Sexual Violence Review Board Act 2024* (Qld) s 41; *Victims of Crime Act 1994* (WA) s 3.

²²⁷ Ministry of Justice (UK), Code of Practice for Victims of Crime in England and Wales (Policy Document, November 2020) <https://assets.publishing.service.gov.uk/media/60620279d3bf7f5ceaca0d89/victims-code-2020.pdf> made under section 33 of the *Domestic Violence, Crime and Victims Act 2004* (UK).

IMPORTANCE OF HAVING A RESPONSIBLE AGENCY

“ If certain principles in the Victims’ Charter do not have a corresponding responsible agency, then how are victims supposed to make a complaint? All principles should have a responsible agency to increase accountability.²²⁸

Many of the principles in the Charter do not have a corresponding responsible agency. For example, while seeking the views of victim survivors under section 9B of the Charter is the responsibility of the Director of Public Prosecutions (DPP), the right to make a victim impact statement does not state who is responsible for ensuring that this is accommodated through the court process. This means many victim survivors who wish to make a Victim Impact Statement may miss out entirely.²²⁹

Section 14, relating to victim survivors’ privacy and section 17, relating to information about an offender, also do not refer to a responsible and accountable agency to ensure victim survivors’ rights are upheld.

Victoria Legal Aid told the Commissioner that Charter principles should have a responsible agency to increase agency compliance.²³⁰ SASVic told the Commissioner that appropriate enforcement and accountability mechanisms require a responsible agency for the purpose of receiving complaints and pursuing compliance with the Charter.²³¹

In contrast, the *Victims of Crime Act 1994* (ACT), is clear about the duty of the relevant agencies. For example, it requires ‘Police and DPP to tell victims about victim impact statement.’ ACT legislation uses active language to ensure the rights of victim survivors are communicated. Additionally, the reference to ‘relevant justice agency’ is defined to clearly advise victim survivors that the Chief Police Officer and the DPP are responsible for upholding victim survivors’ rights in this section.²³² This is demonstrated below in an extract of section 15F from the ACT *Charter of Victims’ Rights* at Figure 4.

Putting the onus on justice and victims’ services agencies, and clarifying their duties, would strengthen the effectiveness of the legislation.

²²⁸ Written submission Victims’ Charter Review 2024/25 – GenWest.

²²⁹ Victims of Crime Commissioner, *Silenced and Sidelined: Systemic inquiry into victim participation in the justice system* (Report, November 2023) 266 <[silenced-and-sidelined_systemic-inquiry-into-victim-participation.pdf](#)>.

²³⁰ Written submission Victims’ Charter Review 2024/25 – Victoria Legal Aid.

²³¹ Written submission Victims’ Charter Review 2024/25 – SASVic.

²³² *Victims of Crime Act 1994* (ACT) s 15F.

FIGURE 4. Section 15F of the *Victims of Crime Act 1994* (ACT)

Part 3A Victims rights
Division 3A.4 Victims rights—information about administration of justice processes
Section 15E

15F Police and DPP to tell victims about victim impact statement

- (1) A relevant justice agency must, within a reasonable period before a victim of an offence would be able to make a victim impact statement, tell the victim the following:
- (a) who may make a victim impact statement;
 - (b) that a victim impact statement may be made orally or in writing;
 - (c) what information a victim impact statement must and may include;
 - (d) how a victim impact statement may be used in court during a proceeding, including that—
 - (i) a copy of the victim impact statement will be given to the offender; and
 - (ii) the victim may be cross-examined about the contents of the victim impact statement; and
 - (iii) the court must consider the victim impact statement in deciding how the offender should be sentenced.

Note The [Crimes \(Sentencing\) Act 2005](#), pt 4.3 sets out the requirements for victim impact statements. A victim impact statement may only be made for an offence that is punishable by imprisonment for longer than 1 year (see that [Act](#), s 48).

- (2) In this section:
- relevant justice agency*** means either of the following justice agencies:
- (a) the chief police officer;
 - (b) the director of public prosecutions.

VICTIM SURVIVORS' 'RIGHTS' NOT CHARTER 'PRINCIPLES'

Reframing principles as victim survivors' rights would bring the Charter into a human rights-based framework making it easier for victim survivors to identify with an active right 'rather' than a more ambiguous or passive 'principle'.

This would also benefit victim survivors by aligning Victoria with rights-based terminology that is employed nationally in the Australian Capital Territory, Queensland and New South Wales legislation.²³³

During consultation, stakeholders noted that the current Charter principles sometimes:

- contain insufficient detail
- reflect guidance rather than articulating 'rights'.²³⁴

THE LANGUAGE IN THE CHARTER SHOULD BE MORE ACTIVE

The Charter principles often use passive language, such as stating agencies 'are to' instead of 'must'.²³⁵ This contrasts with other jurisdictions. In the ACT, justice agencies 'must comply with victims' rights'.²³⁶

Some of the principles allow for exceptions,²³⁷ or do not require agencies to do certain things unless 'practicable' or only 'so far as reasonably practicable'.²³⁸ SASVic noted the passive nature of certain principles and suggested tightening the exceptions in principles that enable agencies not to comply.²³⁹

Rather than requiring agencies to support victims, a number of principles rely on a victim survivor to be aware of the Charter and advocate for their own rights. For example, victims are only entitled to information about bail if they request it.²⁴⁰

Rights-based language focuses on participation and accountability. It removes passive ambiguous language, clearly identifies each right, and articulates the corresponding obligations of the responsible agency to respect, protect and fulfill that right. A rights-based approach is non-discriminatory and empowers rights-holders, while ensuring accountability of those with responsibility for upholding those articulated rights.²⁴¹

²³³ Note South Australia refers to 'principles governing treatment of victims': *Victims of Crime Act 2001* (SA) div 2.

²³⁴ Consultation meeting Victims' Charter Review 2024/25 - Victim Survivors' Advisory Council.

²³⁵ *Victims' Charter Act 2006* (Vic) ss 6, 7, 7A, 7B.

²³⁶ *Victims of Crime Act 1994* (ACT) s 18.

²³⁷ *Victims' Charter Act 2006* (Vic) s 9B(3)(b).

²³⁸ *Victims' Charter Act 2006* (Vic) s 7A(b).

²³⁹ Written submission Victims' Charter Review 2024/25 – SASVic.

²⁴⁰ *Victims' Charter Act 2006* (Vic) s 10.

²⁴¹ Australian Human Rights Commission, 'Human Rights-Based Approaches' (Web Page) <<https://humanrights.gov.au/our-work/rights-and-freedoms/human-rights-based-approaches>>.

The Commissioner heard that victim survivors want the Charter principles to use stronger rights-based language, not just guidance:

“ *The language used about the principles is a bit vague. I would like to see some more contemporary language which is trauma informed, that is strength-based and that adopts some of the concepts and models and language used in human rights.*²⁴²

The Commissioner also heard that the Charter needs to be more practical and action-orientated:

“ *The Victims' Charter principles talk about 'responding' to victims – but it should be about agencies acting – taking accountability.*²⁴³

“ *The Victims' Charter principles are 'motherhood' statements.*²⁴⁴

SASVic supported the reframing of the principles to 'rights' supported by guiding materials on the actions required to uphold the rights.²⁴⁵

ADAPTING THE CHARTER TO INCLUDE NEW THEME-BASED RIGHTS

In addition to adopting 'rights-based' language, the Charter principles need to be simplified and streamlined so that key rights are clearly articulated under themed headings.

These newly articulated rights should be set out under overarching or 'umbrella' themes or headings so that they can be more easily summarised and communicated to victim survivors.

The Review recommends the Charter use action-oriented rather than passive terminology, such as: 'must comply with victim survivors' rights'.

Also, unnecessary legislative detail should be removed by using legislative 'notes' where necessary to reference the primary or principal legislation.²⁴⁶

²⁴² Consultation meeting Victims' Charter Review 2024/25 - Victim Survivors' Advisory Council.

²⁴³ Consultation meeting Victims' Charter Review 2024/25 - Victims of Crime Commissioner's Lived Experience Advisory Group.

²⁴⁴ Consultation meeting Victims' Charter Review 2024/25 - Victims of Crime Commissioner's Lived Experience Advisory Group.

²⁴⁵ Written submission Victims' Charter Review 2024/25 – SASVic.

²⁴⁶ For example, the *Sentencing Act 1991* (Vic) sets out the Victim Impact Statement scheme in detail. The Charter should reflect a victim survivors' right to make a Victim Impact Statement, with detail about its implementation left to the *Sentencing Act 1991* and Victims' charter guidance documents for agencies with obligations.

The Commissioner also heard proposals to strengthen existing principles and for new principles or rights to be introduced.²⁴⁷ These include:

- A new and specific right whereby victim survivors must be given information about their rights under the Charter (also discussed at **Recommendation 3**). In their submission, GenWest stated:

“it’s actually the role of services and anyone you’re engaging with to educate you on your rights, providing victims with a statement of rights will help enforce that.”²⁴⁸

- A new right for victim survivors to be informed about sentence indications.²⁴⁹

The Charter was originally designed to articulate all victim survivors’ entitlements in Victoria. However, over time the Charter has not kept pace with amendments to other laws containing new rights for victim survivors. For example, the right in the *Criminal Procedure Act 2009* (Vic) relating to an application to pre-record evidence²⁵⁰ and the right to make a Victim Report under the *Crimes (Mental Impairment and Unfitness to be Tried) Act 1997* (Vic)²⁵¹ are not reflected in the Charter. This presents a current gap in the Charter.

A REVISED SET OF RIGHTS AS A SCHEDULE TO THE CHARTER

The Commissioner acknowledges these gaps, and issues raised by stakeholders and victim survivors in this Review consultation, as well as in previous reviews and inquiries. To enhance the operation of the Charter for the benefit of victim survivors, and to facilitate culture change, this Review proposes changes to:

- strengthen or amend existing principles to better reflect victim survivor needs and expectations
- incorporate existing rights or entitlements from other Victorian legislation that are not yet reflected in the Charter, and
- introduce new rights where existing principles have not kept pace with victim survivor expectations and needs.

The proposed schedule of rights has been prepared based on the findings of this Review, the recommendations of the Systemic Inquiry and internal research conducted by the Commissioner’s office.

Appendix 3 sets out proposed changes to the Charter principles and reframes them into rights.

²⁴⁷ Written submission Victims’ Charter Review 2024/25 – SASVic; Consultation meeting Victims’ Charter Review 2024/25 - Victim Witness Assistance Service; Consultation meeting Victims’ Charter Review 2024/25 - Bendigo Region - sexual assault services, SOCIT Victoria Police, Child Protection, Victim Assistance Program, family violence services, community legal service, multicultural services; Consultation meeting Victims’ Charter Review 2024/25 - South West Region - sexual assault services, family violence services, Victim Assistance Program and specialist victims’ legal service.

²⁴⁸ Written submission Victims’ Charter Review 2024/25 – GenWest.

²⁴⁹ Victims of Crime Commissioner, *Silenced and Sidelined: Systemic inquiry into victim participation in the justice system* (Report, November 2023) 428 (Recommendation 37) <[silenced-and-sidelined_systemic-inquiry-into-victim-participation.pdf](#)>; A sentence indication is where a court indicates the sentence likely to be imposed if the accused pleads guilty prior to a trial commencing; Victims of Crime Commissioner, *Silenced and Sidelined: Systemic inquiry into victim participation in the justice system* (Report, November 2023) 270; Criminal Procedure Act 2009 (Vic) s 207 <[silenced-and-sidelined_systemic-inquiry-into-victim-participation.pdf](#)>.

²⁵⁰ *Criminal Procedure Act 2009* (Vic) s 19.

²⁵¹ *Crimes (Mental Impairment and Unfitness to be Tried) Act 1997* (Vic) s 42.

Introducing rights instead of principles into the Charter (as set out in [Appendix 3](#)) will not create a legal right to any action for victim survivors experiencing non-compliance with their rights. The Charter will continue to operate in accordance with section 22 of the Charter, which specifically states that no legal rights are affected by the Charter.

The Commissioner envisages a revised set of rights set out in a Schedule to the Charter, replacing current Part 2. This would give all victim survivors the right to:

1. Respectful treatment
2. Be given information about their rights under the Charter of Rights
3. Be referred to victim support, legal and financial assistance services
4. Have their property and privacy respected
5. Be given information about the progress of an investigation
6. Be given information about the progress of a prosecution
7. Have a right to safety in courts

Victim survivors of crimes against the person have the right to:

8. Be consulted about prosecution decisions
9. Participate in certain justice processes.

Recommendation 9

The *Victims' Charter Act 2006* (Vic) should be:

- a. amended to reflect a simple and strong statement of Victims' Charter Rights, set out in a Schedule to the Act. This statement of rights should:
 - o use mandatory active language
 - o have a responsible agency
 - o be set out under themes so that victim survivor rights can be more easily understood, and
 - o be co-designed with people who have lived experience.
- b. reviewed (at Section 22 of the *Victims' Charter Act 2006* (Vic)) to ensure there are no inconsistencies with the use of rights-based language in the statement of rights.

CHAPTER

5

Application of the Charter



During this Review, the Commissioner heard from victim survivors and stakeholders about:

- who the Charter should apply to, and
- whether the right to information and consultation should apply to crimes against the person in indictable and summary matters.

This Chapter explores:

- the current definition of victim and whether it unintentionally excludes certain victim survivors who require protection, and
- whether the Charter principles in sections 9A, 9B and 9C should be expanded to apply to crimes against the person in summary matters (or matters heard in the Magistrates' Court).

Definition of victim

The term 'victim' is defined in the Charter as:

- a. a natural person who has suffered injury as a direct result of a criminal offence, whether or not that injury was reasonably foreseeable by the offender; or
- b. if a person has died as a direct result of a criminal offence committed against that person, a family member of that person; or
- c. if the person referred to in (a) is under 18 years of age or is incapable of managing his or her own affairs because of mental impairment, a family member of that person, or
- d. in the case of an offence against section 49M of the *Crimes Act 1958* (Vic) (grooming for sexual conduct with a child under the age of 16), the child and a family member of that child.²⁵²

²⁵² *Victims' Charter Act 2006* (Vic) s 3.

For the purposes of the definition, 'injury' means:

- a. actual physical bodily injury; or
- b. mental illness or disorder or an exacerbation of a mental illness or disorder, whether or not flowing from nervous shock; or
- c. pregnancy; or
- d. grief, distress or trauma or other significant adverse effect; or
- e. loss or damage to property or
- f. any combination of matters referred to in paragraphs (a), (b), (c), (d) and (e).²⁵³

While the current definition of 'victim' in the Charter is broad, it:

- excludes some individuals
- can cause confusion as the definition varies across different Victorian legislation.²⁵⁴

VIEWS ON THE DEFINITION OF 'VICTIM'

During this Review, victim survivors and other stakeholders spoke about limitations to the current definition of 'victim' in the following circumstances:

- victim survivors of family violence including children²⁵⁵ and those whose matter proceeds through the civil (not criminal) jurisdiction and/or the Family Court²⁵⁶
- incidents where criminality is not yet determined (e.g. deaths in a workplace context)²⁵⁷
- non-offending partners and family of perpetrators of child sexual abuse and child exploitation material²⁵⁸
- instances of women who are misidentified as perpetrators of a crime,²⁵⁹ and
- differing definitions of victim across *Serious Offenders Act 2018* (Vic), the *Corrections Act 1986* (Vic) and the Charter making decision making challenging in the Post Sentence Authority scheme.²⁶⁰

²⁵³ *Victims' Charter Act 2006* (Vic) s 3.

²⁵⁴ Victims of Crime Commissioner (Vic), *Victims' Charter Review Consultation Paper* (November 2024) 20 <<https://victimsofcrimecommissioner.vic.gov.au/media/tzyhubuo/victims-charter-review-consultation-paper.pdf?id=vqAuchw-EUutb5QB1oVuJFo8CNLWjAlltpZ3FMzhdNdURjJXRDA5NkRFRFIVUJDM0JGUTVSVFhIUS4u>>; Victims of Crime Commissioner, *Silenced and Sideline: Systemic inquiry into victim participation in the justice system* (Report, November 2023) 56 <[silenced-and-sideline_systemic-inquiry-into-victim-participation.pdf](#)>.

²⁵⁵ Consultation meeting Victims' Charter Review 2024/25 – CCYP Youth Council members.

²⁵⁶ Consultation meeting Victims' Charter Review 2024/25 - Roundtable Victoria Legal Aid and Community Legal Centres; Consultation meeting Victims' Charter Review 2024/25 - Bendigo Region - sexual assault services, SOCIT Victoria Police, Child Protection, Victim Assistance Program, family violence services, community legal service, multicultural services.

²⁵⁷ Consultation meeting Victims' Charter Review 2024/25 – WorkSafe.

²⁵⁸ Written submission Victims' Charter Review 2024/25 – SASVic.

²⁵⁹ Written submission Victims' Charter Review 2024/25 - Law and Advocacy Centre for Women.

²⁶⁰ Written submission Victims' Charter Review 2024/25 - Post Sentence Authority.

SHOULD 'VICTIM' BE REDEFINED?

The current definition of 'victim' in the Charter excludes some victim survivors who require protection. However, expanding the definition of victim raises significant complexities, including impacting the operation of other legislation that interacts with the Charter. For example, Charter rights relating to Victim Impact Statements, and the victims register have their origins in other Victorian legislation. It would lead to legislative inconsistencies if the Charter expanded the definition of victim, but similar expanded definitions were not replicated across other relevant Victorian legislation.

Expanding the definition of 'victim' to simplify and harmonise it across all Victorian legislation, to the extent appropriate, will ensure that the right people are captured in all relevant areas of law. This will require careful and considered inquiry and targeted consultation.

Given the Victorian Law Reform Commission's (VLRC) expertise with previous inquiries into victim-related issues,²⁶¹ the VLRC is well placed to conduct a review.

The Commissioner therefore recommends that the Attorney-General refers a review of the definition of 'victim' in the Charter to the VLRC. This review would consider the definition of victim across all Victorian legislation, including but not limited to:

- *Sentencing Act 1991* (Vic)
- *Corrections Act 1986* (Vic)
- *Serious Offenders Act 2018* (Vic)
- *Victims of Crime (Financial Assistance Scheme) Act 2022* (Vic)
- *Victims of Crime Assistance Act 1996* (Vic)
- *Family Violence Protection Act 2008* (Vic)

This VLRC review should consider:

- Whether the Charter should expand the definition of victim having regard to the issues raised in this Review.
- The impacts of expanding the definition of victim in the Charter on the operation of other Acts and schemes.
- Opportunities to ensure definitions are clear and consistent across all Victorian legislation.

²⁶¹ For example, the Victorian Law Reform Commission, *The Role of Victims of Crime in the Criminal Trial Process* (Report No 34, August 2016) <https://www.lawreform.vic.gov.au/wp-content/uploads/2021/07/VLRC_Victims-Of-Crime-Report-W.pdf>.

Recommendation 10

The Attorney-General should refer to the Victorian Law Reform Commission a review of the definition of 'victim' in the *Victims' Charter Act 2006* (Vic) having regard to the definition of victim across all Victorian legislation. This review should consider:

- a. Whether the *Victims' Charter Act 2006* (Vic) should expand the definition of victim having regard to the definition of victim across other Victorian legislation.
- b. The impacts of expanding the definition of victim in the Charter on the operation of other Acts and schemes.
- c. Opportunities to harmonise and ensure definitions are clear and consistent.

The right to information and consultation during prosecution

Under the Charter, prosecuting agencies²⁶² are to provide victim survivors with general information regarding a prosecution, regardless of the crime type.²⁶³

The prosecuting agency must give victim survivors details about:

- how to find the date, time and place of the hearing
- the outcome of the criminal proceeding (including any sentence imposed), and
- if an appeal is instituted, any information about that appeal, including the result.²⁶⁴

ADDITIONAL RIGHTS FOR VICTIM SURVIVORS OF INDICTABLE CRIME

Indictable crimes are heard in the higher courts (County and Supreme Courts) and prosecuted by the Director of Public Prosecutions (DPP). These crimes include homicide, family violence, sexual assault, and stalking. They are serious crimes against the person and often require the involvement of victim survivors, which may include giving evidence in a court proceeding.

In 2018, the Charter was amended to provide additional information and consultation rights for victim survivors of indictable crimes.

The additional rights are set out in the following table.

²⁶² Prosecuting agency is defined in s 3 of the *Victims' Charter Act 2006* (Vic) as the DPP or a police officer, or a person authorised to bring proceedings for a criminal offence against an enactment.

²⁶³ *Victims' Charter Act 2006* (Vic) s 9.

²⁶⁴ *Victims' Charter Act 2006* (Vic) s 9.

TABLE 3. Additional rights to information and consultation

Section 9A	The DPP must provide victims with additional information, including taking ‘all reasonable steps’ to advise a victim of: - the date, time and location of any contested committal hearing, trial, plea hearing, sentencing hearing and appeal hearing²⁶⁵ - the progress of a prosecution, including the outcome of any committal mention, contested committal hearing, initial directions hearing, trial, plea hearing, sentencing hearing or appeal hearing, or guilty plea.²⁶⁶
Section 9B	The DPP is obliged to seek a victim's views on certain prosecutorial matters²⁶⁷ and to provide victims with reasons for certain prosecutorial decisions.²⁶⁸
Section 9C	The DPP is required to give a victim the reasons, in writing or orally, for any decision to substantially modify a charge, discontinue the prosecution of a charge or accept a plea of guilty to a lesser charge.²⁶⁹

Providing these additional rights facilitates victim survivors' participation in significant prosecutorial decisions, which include the decision to discontinue a prosecution or accept a plea to a lesser charge.

Victim survivors are entitled to provide their views to inform such decisions and understand the reasons for those decisions.

²⁶⁵ *Victims' Charter Act 2006* (Vic) s 9A(a).

²⁶⁶ *Victims' Charter Act 2006* (Vic) s 9A(b).

²⁶⁷ *Victims' Charter Act 2006* (Vic) s 9B(1).

²⁶⁸ *Victims' Charter Act 2006* (Vic) s 9B(2); Note that the DPP is not required to seek the views of a victim or inform victims of a prosecutorial decision if the victim cannot be contacted after all reasonable attempts, or if it is not practical to contact the victim given the speed or nature of the proceeding: *Victims' Charter Act 2006* (Vic) s 9B(3).

²⁶⁹ *Victims' Charter Act 2006* (Vic) s 9C(1)(2); However, the DPP may decline to provide reasons if disclosing their reasons could jeopardise any investigation of a criminal offence or prejudice any other proceeding: *Victims' Charter Act 2006* (Vic) s 9C(3).

INEQUITY IN INFORMATION AND CONSULTATION RIGHTS

Some serious crimes against the person, including assault, stalking and certain sexual offences, are prosecuted by Victoria Police as summary matters in the Magistrates' Court. These are serious crimes with the potential for significant impact on victim survivors.

Being heard as summary matters in the Magistrates' Court means victim survivors of these crimes are not entitled under the Charter to be consulted about prosecutorial decisions, as they would be if the matter was heard as an indictable matter in a higher court prosecuted by the DPP.

These victim survivors are denied the opportunity to have their views sought on the charges. They are not provided with reasons for decisions, if there are substantial changes to the charge, the prosecution is discontinued, or the accused accepts a plea of guilty to a lesser charge.

During consultations for this Review, the Commissioner heard that the Charter principles should apply consistently to all victim survivors, regardless of prosecuting agency²⁷⁰ and that victim survivors in the summary jurisdiction are not getting the information and support they need.²⁷¹

The majority of crimes against the person matters are prosecuted in the summary stream (in the Magistrates' Court).²⁷² Issues experienced by victim survivors in the summary jurisdiction can affect the highest proportion of victim survivors in Victoria. This was raised to support the equal treatment of victim survivors – otherwise, only a 'handful' of victims will access information and consultation requirements.²⁷³

“All victims need to be treated equally. Otherwise, you are creating a system where there is a hierarchy of victims and hierarchy of crimes ...”²⁷⁴

The Commissioner heard from stakeholders that Charter principles should apply equally across court jurisdictions:

“It all begins in the Magistrates' Court and all Charter principles should apply in that jurisdiction.”²⁷⁵

²⁷⁰ Consultation meeting Victims' Charter Review 2024/25 - Bendigo Region - sexual assault services, SOCIT Victoria Police, Child Protection, Victim Assistance Program, family violence services, community legal service, multicultural services; Consultation meeting Victims' Charter Review 2024/25 - South West Region - sexual assault services, family violence services, Victim Assistance Program and specialist victims' legal service.

²⁷¹ Confidential victim survivor interviews February – March 2025.

²⁷² More than 93 per cent of Victoria's criminal and civil cases begin and end in the Magistrates' Court: Magistrates' of Victoria, Annual Report 2023-2024, 6 < [MCV Annual Report 2023-24.pdf](#) >.

²⁷³ Consultation meeting Victims' Charter Review 2024/25 - Roundtable Victoria Legal Aid and Community Legal Centres.

²⁷⁴ Consultation meeting Victims' Charter Review 2024/25 - Roundtable Victoria Legal Aid and Community Legal Centres.

²⁷⁵ Consultation meeting Victims' Charter Review 2024/25 - Bendigo Region - sexual assault services, SOCIT Victoria Police, Child Protection, Victim Assistance Program, family violence services, community legal service, multicultural services.

The Victorian Parliamentary *Inquiry into Victoria's justice system* recommended that the Charter be amended so that victim survivors have the same 'entitlements to information, regardless of whether a prosecuting agency is dealing with a summary or indictable offence'.²⁷⁶ Importantly, the Inquiry noted that 'experiences of victimisation or crime is traumatising for victims'.²⁷⁷

The Systemic Inquiry also recommended increasing the consultation requirements in sections 9A-C of the Charter to all prosecuting agencies and to all crime types.²⁷⁸

The Review has recognised the resourcing implications of reform in this area. The Review therefore departs from the recommendations of the Systemic Inquiry, and the Parliamentary Inquiry, in that it proposes to extend consultation rights *only* to crimes against the person heard in the summary jurisdiction and not all crimes.

Not all stakeholders support extending consultation rights to the summary jurisdiction. In their report, *Improving Victims' Experience of Summary Proceedings*,²⁷⁹ DJCS did not support extending all prosecution obligations under the Charter to the summary jurisdiction of the Magistrates Court. DJCS's report noted that extending consultation obligations comes with 'significant resourcing impacts'.²⁸⁰

The report also found that 'increased victim consultation would inevitably result in additional adjournments' which 'would reduce the efficiency of proceedings, delaying the resolution of cases'.²⁸¹

²⁷⁶ Legal and Social Issues Committee, *Inquiry into Victoria's Criminal Justice System* (Parliament of Victoria, Legislative Council, Report No 10, March 2022) 281.

²⁷⁷ Legal and Social Issues Committee, *Inquiry into Victoria's Criminal Justice System* (Parliament of Victoria, Legislative Council, Report No 10, March 2022) 281.

²⁷⁸ Victims of Crime Commissioner, *Silenced and Sidelined: Systemic inquiry into victim participation in the justice system* (Report, November 2023) 313 <[silenced-and-sidelined_systemic-inquiry-into-victim-participation.pdf](#)>.

²⁷⁹ Department of Justice and Community Safety (Victoria), *Improving Victims' Experience of Summary Proceedings* (Final Report, November 2021) <[improving_victims_experience_of_summary_criminal_proceedings_-_final_report_5pk8fjvb.pdf](#)>.

²⁸⁰ Department of Justice and Community Safety (Victoria), *Improving Victims' Experience of Summary Proceedings* (Final Report, November 2021) 25 <[improving_victims_experience_of_summary_criminal_proceedings_-_final_report_5pk8fjvb.pdf](#)>.

²⁸¹ Department of Justice and Community Safety (Victoria), *Improving Victims' Experience of Summary Proceedings* (Final Report, November 2021) 24 <[improving_victims_experience_of_summary_criminal_proceedings_-_final_report_5pk8fjvb.pdf](#)>.

INFORMATION AND CONSULTATION RIGHTS SHOULD APPLY TO ALL CRIMES AGAINST THE PERSON REGARDLESS OF WHERE THEY ARE PROSECUTED

The Commissioner acknowledges the resourcing and efficiency impacts on the Magistrates' Court and Victoria Police if additional consultation obligations are extended to victim survivors of crimes against the person where charges are heard in the Magistrates Court.

Nonetheless, noting the significant harm caused by many crimes against the person, the often onerous requirements of the justice process, and victim survivors' request for additional consultation rights, additional rights relating to information and consultation during the prosecution process²⁸² should be extended to all crimes against the person prosecuted in all courts - both summary (Magistrates' Court) and indictable streams (County and Supreme Courts).

This will require all prosecuting agencies to be subject to the same information and consultation requirements as the DPP.

The additional proposed obligations, to be placed on Victoria Police when prosecuting crimes against the person in the Magistrates' Court, are highlighted in the following figure.

Recommendation 11

The *Victims' Charter Act 2006* (Vic) should be amended to ensure that the obligations under sections 9A, 9B and 9C of the *Victims' Charter Act 2006* (Vic) will apply to all crimes against the person in summary matters.

²⁸² Currently the *Victims' Charter Act 2006* (Vic) ss 9A, 9B, 9C apply only to matters prosecuted by the DPP.

FIGURE 5. Consultation obligations on all prosecuting agencies

**CURRENT OBLIGATIONS –
CRIMES AGAINST THE PERSON IN SUMMARY MATTERS**

To give victim survivors information about:

- the offences charged against the accused
- reasons why no offence has been charged
- that charges are being substantially modified, discontinued, or that an accused is accepting a plea of guilty to a lesser charge
- details about the time and place of the hearing
- the outcome of the criminal proceeding
- the grounds and result of any appeal

(Section 9 of the Charter).



**PROPOSED ADDITIONAL OBLIGATIONS –
CRIMES AGAINST THE PERSON IN SUMMARY MATTERS**

To give victim survivors information about:

- the date, time and location of any contested committal hearing, trial, plea hearing, sentencing hearing and appeal hearing.
- the progress of a prosecution, including the outcome of any committal mention, contested committal hearing, initial directions hearing, trial, plea hearing, sentencing hearing or appeal hearing, or guilty plea.

To seek a victim's views on certain prosecutorial matters and to provide victims with reasons for certain prosecutorial decisions.

To give a victim the reasons, in writing or orally, for any decision to substantially modify a charge, discontinue the prosecution of a charge or accept a plea of guilty to a lesser charge.

(Sections 9A - 9C of the Charter)

CHAPTER

6

The Charter and the Court



“ Courts set the culture – if they are not subject to the Victims’ Charter, then what is going to achieve culture change?²⁸³

During this Review the Commissioner heard from victim survivors, justice and victims’ services agencies and judicial officers about the role of the Charter and Courts. The review heard that many victim survivors have negative experiences of the Court environment and want better protections and treatment.

It is in this context that the Review considers the Charter’s limited application to the Court and examines how:

- the section 6 Charter requirements (to treat victim survivors with courtesy, respect and dignity, and take into account and be responsive to their needs) could apply to Courts, Court Services Victoria (CSV) and defence barristers and solicitors
- the section 12 Charter requirement (contact between a victim survivor and accused in a court building to be minimised) could be further enhanced to provide better physical safety for victim survivors in Court buildings, and
- complaints about non-compliance with Charter provisions could apply to Courts, CSV and defence barristers and solicitors.

In this Chapter, the term ‘the Court’ includes:

- Judicial officers – judges, magistrates and judicial registrars.
- Each of the courts as institutions – Supreme Court, County Court, Magistrates’ Court, Children’s Court and Coroners Court.
- Court Services Victoria (CSV) – the employer of staff in all courts (excluding judicial officers) and the body responsible for court operations, including security and building management. CSV also refers to all people working in a court (or court operations and support), other than judicial officers.

²⁸³ Consultation meeting Victims’ Charter Review 2024/25 – Victims’ services staff.

What did the Review hear about the Charter and the Court?

“Victims’ Charter rights should be standard across courts. Judges absolutely need to understand these principles. They are ones making the decisions. The decisions they make need to consider these principles. Judges have a level of education so should understand what the principles mean and take them into consideration.”²⁸⁴

During the Review victim survivors spoke to the Commissioner about their negative experiences and treatment in Court, and the need for better protections and treatment. Victim survivors told the Commissioner:

“I think everyone should be covered by the Charter... It should apply to anyone who has to interact with victims in any way.”²⁸⁵

“Why aren’t courts covered by the Charter. Why aren’t agencies coming forward to be a part of the Charter. If everyone is covered things are easier. Why don’t we have a justice system and support system where everyone is working together.”²⁸⁶

Conversely, judicial stakeholders were generally not supportive of the Court being subject to the Charter for a number of reasons including that judicial independence is critical to their role and the administration of justice.²⁸⁷

The resource implications of imposing additional obligations and requirements on judicial officers, court staff and the administration of justice were also raised:²⁸⁸

“Those qualities – independence and impartiality – set the Court apart from the executive and legislative arms of government...the Court’s legitimacy and the proper administration of justice depend on their strict application.”²⁸⁹

“Amending the Charter so that it applies to the judicial function would not positively advance the administration of justice. Rather, it would detract from the fundamental principles which exist for the benefit of the community as a whole.”²⁹⁰

²⁸⁴ Confidential victim survivor interviews February – March 2025.

²⁸⁵ Confidential victim survivor interviews February – March 2025.

²⁸⁶ Confidential victim survivor interviews February – March 2025.

²⁸⁷ Written submission Victims’ Charter Review 2024/25 - Supreme Court of Victoria.

²⁸⁸ Written submission Victims’ Charter Review 2024/25 - County Court of Victoria.

²⁸⁹ Written submission Victims’ Charter Review 2024/25 - County Court of Victoria.

²⁹⁰ Written submission Victims’ Charter Review 2024/25 - Supreme Court of Victoria.

In their submissions to the Review, the Supreme Court, the County Court and CSV agreed with the importance of Charter principles around the treatment of victim survivors and have embedded some of these in their practices.²⁹¹

Victims' services agencies had mixed views on whether the Charter should apply to the Court. Some saw a tension between judicial independence and Charter obligations.²⁹²

“ *The court must be an independent arbiter. Expanding applicability to the courts is fraught and could lead to problematic unintended consequences.*²⁹³

However, victims' services agencies generally favoured judicial accountability for upholding the Charter.²⁹⁴

“ *Judges and others in positions of authority need to understand the Victims' Charter, uphold the rights of victims and be held accountable if that does not occur.*²⁹⁵

Defining the problem

“ *We are entrusted, day after day, with the exercise of considerable power. Its exercise has dramatic effects upon the lives and fortunes of those who come before us.*²⁹⁶

The Objects of the Charter recognise both the adverse impact of crime on victim survivors, and the inherent interest and role of a victim survivor in the subsequent criminal proceedings.²⁹⁷

For a victim survivor, often the most significant and potentially traumatic aspects of criminal proceedings occur in and around a courtroom.

Justice and victims' services agencies have some control over the way victim survivors are treated during court proceedings. However, control primarily lies with the Court. Within criminal proceedings, this is the presiding judicial officer. CSV is responsible for safety, security and administrative decisions that support court proceedings.

²⁹¹ Written submission Victims' Charter Review 2024/25 - County Court of Victoria; Written submission Victims' Charter Review 2024/25 - Supreme Court of Victoria.

²⁹² Consultation meeting Victims' Charter Review 2024/25 - Roundtable Victoria Legal Aid and Community Legal Centres; Written submission Victims' Charter Review 2024/25 - Federation of Community Legal Centres.

²⁹³ Consultation meeting Victims' Charter Review 2024/25 - Roundtable Victoria Legal Aid and Community Legal Centres.

²⁹⁴ Consultation meeting Victims' Charter Review 2024/25 - Victims' services staff.

²⁹⁵ Written submission Victims' Charter Review 2024/25 - GenWest.

²⁹⁶ Australasian Institute of Judicial Administration, *Guide to Judicial Conduct* (3rd ed, December 2023) 2 <https://aija.org.au/wp-content/uploads/2024/04/Judicial-Conduct-guide_revised-Dec-2023-formatting-edits-applied.pdf>.

²⁹⁷ *Victims' Charter Act 2006* (Vic) s 4.

How and when the Charter should apply to the Court is one of the most challenging questions faced by the Review. There are four distinct aspects to this underlying complexity:

- This Review, consistent with the Systemic Inquiry, heard about many instances where the Courts do not uphold the Charter, or protect the rights and needs of victim survivors.
- The Charter currently applies to the Courts and CSV in a limited way, in relation to:
 - section 12 – to ensure the victim is safe from contact or intimidation by the accused, and
 - section 13 – a victim may make a Victim Impact Statement to the Court.

The Charter does not enable a victim survivor to make a complaint about the Courts' or CSV's non-compliance with the Charter.
- The guarantee of 'judicial independence', which is enshrined in the *Constitution Act 1975* (Vic), results in Courts having a different status to justice and victims' services agencies and raises additional issues for applying the Charter to Courts.
- Currently, the Charter does not expressly apply to criminal defence barristers and solicitors when appearing in Courts. The Review heard that victim survivors want the Charter to apply to defence barristers and solicitors.

The Court needs to uphold the Charter rights of victim survivors

“The trial was the worst experience – nothing in line with the Charter there.”²⁹⁸

VICTIM SURVIVORS ARE NOT TREATED WITH COURTESY, RESPECT AND DIGNITY

Victim survivors spoke about negative experiences in court, and the need for better protections and treatment. Victim survivors expressed concern that the principle at section 6 of the Charter, 'Treatment of persons adversely affected by crime', does not apply to the Court as it does for other justice and victims' services agencies.²⁹⁹

This principle requires justice and victims' services agencies to treat victim survivors with courtesy, respect and dignity³⁰⁰ and to take into account and be responsive to their needs, including:

- race or indigenous background
- sex or gender identity
- culture or linguistic diversity
- sexual orientation
- disability
- religion, and
- age.³⁰¹

²⁹⁸ Confidential victim survivor interviews February – March 2025.

²⁹⁹ Written submission Victims' Charter Review 2024/25 - Peter Gamble; Confidential victim survivor interviews February – March 2025.

³⁰⁰ *Victims' Charter Act 2006* (Vic) s 6(1).

³⁰¹ *Victims' Charter Act 2006* (Vic) s 6(2).

The Review heard many accounts from victim survivors who were treated without respect or regard for their needs while in Court, where judicial officers and/or CSV were primarily responsible for their wellbeing. This echoed the evidence of victim survivors during the Systemic Inquiry.

Victim survivors told the Commissioner about feeling disrespected during the court process,³⁰² and prosecutors being permitted to communicate in a way that was insensitive to victim survivor needs.³⁰³

While the Commissioner heard of negative victim survivor experiences with Courts, it is also important to acknowledge that many judicial officers manage their courtrooms by displaying respect to all people, including victim survivors. In its submission to the Review, the County Court observed that ‘the standards of conduct generally expected of judicial officers’:

“ demand respectful treatment of all persons who come before them. Conduct with [sic] falls short of these standards is subject to scrutiny by the Judicial Commission of Victoria.”³⁰⁴

The County Court’s submission also recognised that court processes can recreate trauma for victim survivors:

“ the adversarial system does not always meet the justice needs of those affected by crime. It is a system that can lead to re-traumatisation and alienation.”³⁰⁵

Victim survivors can feel that the Court does not protect them from ongoing trauma, especially through cross examination.³⁰⁶

“ I had gone into the legal system hoping to have an independent umpire to blow the whistle on what is going on – for the judge to issue a penalty and say stop ... [but] the system was being used to further the abuse ... Perpetrators can use the justice system as a weapon to interfere with your present and future.”³⁰⁷

³⁰² Confidential victim survivor interviews February – March 2025; Written submission Victims’ Charter Review 2024/25 - Peter Gamble.

³⁰³ Consultation meeting Victims’ Charter Review 2024/25 - Victim Survivors’ Advisory Council.

³⁰⁴ Written submission Victims’ Charter Review 2024/25 - County Court of Victoria.

³⁰⁵ Written submission Victims’ Charter Review 2024/25 - County Court of Victoria.

³⁰⁶ Victims of Crime Commissioner, *Silenced and Sidelined: Systemic inquiry into victim participation in the justice system* (Report, November 2023) 135 <[silenced-and-sidelined-systemic-inquiry-into-victim-participation.pdf](#)>.

³⁰⁷ Victims of Crime Commissioner, *Silenced and Sidelined: Systemic inquiry into victim participation in the justice system* (Report, November 2023) 135 <[silenced-and-sidelined-systemic-inquiry-into-victim-participation.pdf](#)>.

THE COURT IS OFTEN UNSAFE FOR VICTIM SURVIVORS

Section 12 of the Charter provides that contact between a victim survivor and accused in a court building is to be minimised. During the Review, the Commissioner was repeatedly told that the right for victim survivors to be protected from contact with an accused is not being respected:

“At one of the hearings, whilst waiting in the over-crowded foyer, we found out quite by accident that we were sitting beside the perpetrator and his lawyer... Where was our information about the process of the hearings, why were we not warned [and] taken to a quiet, safe side room?”³⁰⁸

“You do not feel safe when they walk the perpetrator in with all the family members through the main hallways rather than taking them through the backrooms. It's horrifying.”³⁰⁹

“The physical configuration of Melbourne Magistrates Court courtrooms, waiting areas, foyers, lifts, circulations spaces etc does not provide for the physical safety of victims.”³¹⁰

The Review acknowledges there have been impressive advancements in newly-built Courts and renovations completed in other Courts. However, the Commissioner heard that there is older Court infrastructure which does not always provide physical and psychological safety for victim survivors. For example, stakeholders spoke about the need for separate entrances, exits and facilities for victims and perpetrators, ‘safe spaces’ where victims could seek reprieve, as well as improved access to psychological supports during court proceedings.³¹¹

Victim survivors told the Commissioner about their experiences of the physical Court environment, including:

“I ran into the perpetrator out the front of the court building and he was seated in the courtroom two seats away from me.”³¹²

“The court system in general is terrifying, let alone having someone there who's done what they've done to you. You're sitting in the same room with that person.”³¹³

The Systemic Inquiry also found that most Victims' Survey respondents were concerned about their safety while attending court.³¹⁴ Vulnerable respondents, such as Aboriginal people and people with disability³¹⁵ felt unsafe some or all of the time.

³⁰⁸ Written submission Victims' Charter Review 2024/25 – Margaret Markovic.

³⁰⁹ Written submission Victims' Charter Review 2024/25 – GenWest.

³¹⁰ Written submission Victims' Charter Review 2024/25 – Peter Gamble.

³¹¹ Written submission Victims' Charter Review 2024/25 – Safe and Equal; Written submission Victims' Charter Review 2024/25 – GenWest; Consultation meeting Victims' Charter Review 2024/25 – Victim Witness Assistance Service.

³¹² Confidential victim survivor interviews February – March 2025.

³¹³ Written submission Victims' Charter Review 2024/25 – GenWest.

³¹⁴ Victims of Crime Commissioner, *Silenced and Sidelined: Systemic inquiry into victim participation in the justice system* (Report, November 2023) 135 <[silenced-and-sidelined_systemic-inquiry-into-victim-participation.pdf](#)>.

³¹⁵ Victims of Crime Commissioner, *Silenced and Sidelined: Systemic inquiry into victim participation in the justice system* (Report, November 2023) 135 <[silenced-and-sidelined_systemic-inquiry-into-victim-participation.pdf](#)>.

The Charter currently has limited application to the Court

“ Judges maintain the rule of law, uphold the constitution, and administer civil and criminal justice according to law.”³¹⁶

The extent to which the Charter currently applies to the Court, particularly judicial officers and CSV, has been an important area of consideration for the Review.

The Charter’s obligations, and its complaints and monitoring processes, apply to justice and victims’ services agencies who engage with victim survivors during criminal proceedings. However, they currently apply only in a limited way, or not at all, to the Courts:

- In addition to setting out the rights of victim survivors, the principles in Part 2 of the Charter specify the agencies who must uphold those rights, and the actions they must take. Most obligations to uphold these rights apply only to investigatory agencies, prosecuting agencies and/or victims’ services agencies. These do not include the Court in any form – for example section 6 does not require judicial officers or CSV to treat victim survivors with courtesy, respect and dignity or take into account their needs.

- The Court (as well as the prosecuting agency) is required by section 12 of the Charter to ensure the victim survivor is safe from contact or intimidation by the accused. Further, section 13 provides that a victim survivor may make a Victim Impact Statement to the Court. However, the Court and CSV are not included among the agencies who must uphold the other victim survivor rights in Part 2.
- The Commissioner cannot:
 - consider complaints from victim survivors who consider that Charter principles have not been complied with by the Court
 - ask for information from the Court about compliance with the Charter, or
 - report on the implementation of Charter principles that relate to the Court.

Equally, no other body currently has this role.

- Section 18(2) of the Charter requires that a person or body responsible for the administration of criminal justice must have regard to the Charter principles. This means that in undertaking the administration of criminal justice, agencies should ensure that policies or programs are developed that are consistent with the Charter. The Court in its various forms (judicial officer, institution, CSV and employee) is such ‘a person or body’ with respect to criminal proceedings.

³¹⁶ Chief Justice Murray Gleeson, ‘The Role of a Judge and Becoming a Judge’ (Speech, National Judicial Orientation Programme, Sydney, 16 August 1998) <https://www.hcourt.gov.au/assets/publications/speeches/former-justices/gleeson/cj_njop.htm>.

How should the Charter apply to the Court?

“Complying with principles of procedural fairness and using a trauma informed approach does not impinge on judicial independence.”³¹⁷

“From the minute you walk through the door you should be treated with respect all the way through.”³¹⁸

Victim survivors should be able to expect that CSV, each Court, judicial officers and defence barristers and solicitors ensure that the court process does not further traumatised them when they participate in that process.

SECTION 6 CHARTER REQUIREMENT

Upholding the rights for victim survivors to be treated with courtesy, respect and dignity, as set out in section 6(1) of the Charter, should be a matter for anyone involved in criminal proceedings. This applies equally to section 6(2), which requires the needs of victim survivors to be taken into account and responded to. This should include judicial officers, court employees and legal professionals, including defence barristers and solicitors involved in the case.

Legislation may place obligations on judicial officers in a range of areas. For example, with respect to their own conduct, judicial officers must comply with the criminal law, and laws prohibiting sexual harassment or racial discrimination.

As explained by the Australasian Institute of Judicial Administration’s *Guide to Judicial Conduct*:

“Judges must conform to the standard of conduct required by law and expected by the community. They must treat others with civility and respect in their public life.”³¹⁹

Legislation requires judicial officers to engage respectfully with victim survivors in courts. The requirements placed on judicial officers by the *Evidence Act 2008* (Vic) are focused on their oversight of respectful treatment of victim survivors in the Court. For example, while a witness is giving evidence, the judicial officer is required to ensure that the questioning of the witness is appropriate and that any improper questioning is disallowed.³²⁰

The compatibility of the courtesy, respect and dignity principle with judicial independence is clearly articulated by Victoria’s primary prosecuting agency, the Office of Public Prosecutions, who advised the Commissioner that:

“Section 6 of the Victims’ Charter, which relates to the respectful treatment of victims should be expanded to apply to all court users. Within the court environment a victim may interact with a number of different people including prosecution counsel and solicitors, informants, and victim support agencies (all of whom have obligations under the Charter), as well as defence counsel and solicitors, court staff, and the judiciary.”³²¹

³¹⁷ Consultation meeting Victims’ Charter Review 2024/25 – Victims’ services staff.

³¹⁸ Consultation meeting Victims’ Charter Review 2024/25 – Victims’ services staff.

³¹⁹ Australasian Institute of Judicial Administration, *Guide to Judicial Conduct* (3rd ed, December 2023) 9 <https://aija.org.au/wp-content/uploads/2024/04/Judicial-Conduct-guide_revised-Dec-2023-formatting-edits-applied.pdf>.

³²⁰ *Evidence Act 2008* (Vic) s 41.

³²¹ Correspondence from Office of Public Prosecutions to Victims of Crime Commissioner, 24 June 2025.

Put simply, there appears no compelling reason why requiring the Court to treat victim survivors with courtesy, respect and dignity could interfere with proper judicial process or undermine the administration of justice.

The *Guide to Judicial Conduct* states that 'the entitlement of everyone who comes to court – counsel, litigants and witnesses alike – to be treated in a way that respects their dignity should be constantly borne in mind.'³²²

The *Guide to Judicial Conduct* also acknowledges that respectful treatment by judicial officers includes gestures and body language as well as comments and other conversations with people into the courtroom:

“Judges should avoid comments, expressions, gestures or behaviour that may reasonably be interpreted by the hypothetical observer as showing insensitivity to or disrespect for anyone.”³²³

This conclusion was further supported by members of the Victims of Crime Consultative Committee, and victims' services staff:

“In terms of judicial independence, I am not convinced respect and neutrality are at odds with each other.”³²⁴

“The implementation of Specialist Family Violence Courts is evidence of implementing principles around respect for victim survivors in the court room that did not impact on judicial independence.”³²⁵

The Commissioner therefore recommends that:

- The Charter should be amended to extend the application of section 6 to the Court and legal professionals, which properly aligns Part 2 of the Charter with victim survivor's expectations and needs regarding the Court and legal professionals.
- The Charter be amended to ensure that section 6 applies to CSV.
- Part 3 of the Charter should also be amended to clarify the role of judicial officers and CSV in implementing the Charter. As noted above, section 18(2) of the Charter requires that a person or body responsible for the administration of criminal justice must have regard to the Charter principles which applies by implication to the Court.

³²² Australasian Institute of Judicial Administration, *Guide to Judicial Conduct* (3rd ed, December 2023) 19 <https://aija.org.au/wp-content/uploads/2024/04/Judicial-Conduct-guide_revised-Dec-2023-formatting-edits-applied.pdf>.

³²³ Australasian Institute of Judicial Administration, *Guide to Judicial Conduct* (3rd ed, December 2023) 19 <https://aija.org.au/wp-content/uploads/2024/04/Judicial-Conduct-guide_revised-Dec-2023-formatting-edits-applied.pdf>.

³²⁴ Consultation meeting Victims' Charter Review 2024/25 - Victims of Crime Consultative Committee.

³²⁵ Consultation meeting Victims' Charter Review 2024/25 – Victims' services staff.

CHARTER COMPLAINTS AND COMPLIANCE

As noted above, it would be possible to amend the Charter to require judicial officers to treat victim survivors with courtesy, respect and dignity and take into account and be responsive to their needs.

However, under the *Constitution Act 1975* (Vic), the separation of powers among the judicial, executive and legislative arms of government prevents any regulation or coercive oversight of judicial officers by the Executive government (regarding the exercise of judicial or quasi-judicial function).

This means that any complaint about the conduct of a judicial officer must be made to the Judicial Commission of Victoria, which must follow strict procedures to ensure investigation does not infringe judicial independence.

The Commissioner heard during the review that victim survivors should be able to complain to the Judicial Commission if the Charter is not complied with by a judicial officer:

“A victim should be able to complain about a judge’s failure to observe victim rights to the Judicial Commission of Victoria.”³²⁶

The Judicial Commission’s *Making a Complaint Guideline*³²⁷ states:

- “3.1 The Commission can investigate complaints about the conduct or capacity of a judicial officer.
- “3.2 Conduct includes behaviour such as demeanour, manner of speaking, words, and tone of voice.”³²⁸

The Judicial Commission’s complaint function is established by the *Judicial Commission of Victoria Act 2016* (Vic) (the Judicial Commission Act). The Judicial Commission Act does not define ‘conduct’, other than to describe investigatory power as relating to ‘the standards of conduct generally expected of judicial officers.’³²⁹

The outcome of an investigation is limited again by the Constitutional judicial independence, with reports about investigations made to the Governor, Attorney-General, and the Chief judicial officer of the Court.

This guarantee of judicial independence prevents the Commissioner from exercising the complaints and compliance functions that apply to other agencies subject to the Charter.

The mechanisms for complaints provided in the Judicial Commission Act appear to cover the treatment of victim survivors specified in section 6 of the Charter. For completeness, amendment could be made to the Judicial Commission Act to ensure that non-compliance with section 6 of the Charter is a matter which falls within the scope of ‘conduct’ in that Act.

³²⁶ Confidential victim survivor interviews February – March 2025.

³²⁷ Judicial Commission of Victoria, *Making a Complaint Guideline* (21 June 2023) <[Making a Complaint Guideline | Judicial Commission of Victoria](#)>.

³²⁸ Judicial Commission of Victoria, *Making a Complaint Guideline* (21 June 2023) <[Making a Complaint Guideline | Judicial Commission of Victoria](#)>.

³²⁹ *Judicial Commission of Victoria Act 2016* (Vic) s 16.

OTHER JURISDICTIONS

In Western Australia, judicial officers are expressly required to act in accordance with comparable Charter principles – in particular to treat victims with courtesy, compassion and dignity.³³⁰

In all other Australian jurisdictions, the focus is on administrative functions of the courts which includes minimising victim survivors' exposure to defendants, their families and supporters and providing safe entry and exits for victim survivors. The legislative requirements do not apply to judicial functions or judicial decision making.³³¹ For example:

- The New South Wales Charter applies to the court in a similar manner to Victoria – capturing agencies involved in the administration of justice but excluding judicial functions.³³²
- In the ACT, the Charter-equivalent applies to the court when exercising administration functions but excludes judicial officers.³³³

While Australian jurisdictions variously grapple with the tension between victim survivor rights and judicial independence, *New Zealand's Victims' Rights Act 2002* (NZ) provides that:

“ Any person who deals with a victim (e.g. judicial officer, lawyer, member of court staff, police employee, probation officer or member of the New Zealand Parole Board) should

- a. treat the victim with courtesy and compassion; and
- b. respect the victims' dignity and privacy.³³⁴

The principles are intended to guide the treatment of victims but are not enforceable³³⁵ and are not subject to the complaints section of the Act.³³⁶

³³⁰ *Victims of Crime Act 1994* (WA) sch 1.

³³¹ *Victims of Crime Act 1994* (ACT); *Victims of Crime Act 2001* (SA); *Victims' Commissioner and Sexual Violence Review Board Act 2024* (Qld) s 40; *Victims' Rights and Support Act 2013* (NSW); Consultation meeting Victims' Charter Review 2024/25 - NSW Acting Commissioner of Victims Rights.

³³² *Victims' Rights and Support Act 2013* (NSW) s 7(3).

³³³ *Victims of Crime Act 1994* (ACT) s 8(1)(a).

³³⁴ *Victims' Rights Act 2002* (NZ) s 7.

³³⁵ *Victims' Rights Act 2002* (NZ) s 10.

³³⁶ *Victims' Rights Act 2002* (NZ) s 49.

VICTIM SURVIVOR SAFETY

As noted above, sections 12 and 13 of the Charter place specific obligations on the Court regarding the safety of victim survivors and Victim Impact Statements.

While section 12 covers an issue of critical importance to victim survivor safety, the interconnected areas of physical and psychological or psychosocial safety are impacted by a far broader range of factors. Indeed being treated with courtesy, respect and dignity in court is an important factor supporting victim survivors' psychological safety.

The Office of Public Prosecution's Victim and Witness Assistance Service (VWAS) described significant safety issues facing victim survivors in court, including the accused throwing items from the dock and calling out when the victim survivor is reading their Victim Impact Statement. VWAS told the Commissioner that there should be a requirement for separate entries to be installed in all courts, and for screens to protect victim survivors participating in the courtroom.³³⁷

The Charter seeks to ensure that people who come into the court building and participate in court hearings feel safe – both physically and psychologically.

CSV, judicial officers and court staff have a leading role in:

- understanding the impact of trauma and working in a trauma informed way, and
- ensuring that court buildings and court hearings are safe and not further traumatising for victim survivors.

The Review heard about examples of best practice with the current Victorian court system, including:

- The Specialist Family Violence Courts which have been designed to support the safety and wellbeing of people affected by family violence. This includes physical, emotional and cultural safety,³³⁸ and additional safety features, such as separate entrances, safe waiting areas, remote witness facilities and private interview rooms.³³⁹
- The Bendigo Law Courts where the built environment enhances the safety and wellbeing of victim survivors, through measures such as:
 - built-in screens in courtrooms to shield the victim survivor from the accused when they are in the witness box giving evidence
 - specifically allocated seating for family members of the accused (so that they cannot be seen by the victim survivor)
 - safe (and culturally safe) waiting areas
 - Remote Witness Facilities (with safe waiting areas) which can be accessed from the front and rear of the court building
 - a separate entry at the rear of the building for victim survivors who have matters being heard in the Specialist Family Violence Court, and
 - specific waiting areas for children and young people.

³³⁷ Consultation meeting Victims' Charter Review 2024/25 - Victim Witness Assistance Service.

³³⁸ Magistrates' Court of Victoria, 'Specialist Family Violence Courts' (Web Page, 7 April 2025) <<https://www.mcv.vic.gov.au/about/specialist-family-violence-courts>>.

³³⁹ Magistrates' Court of Victoria, 'Specialist Family Violence Courts' (Web Page, 7 April 2025) <<https://www.mcv.vic.gov.au/about/specialist-family-violence-courts>>.

To reflect this contemporary understanding of safety, section 12 should be amended to place a broader obligation on CSV to ensure victim survivor safety.³⁴⁰

The Charter should be amended, beyond the current provisions in Section 12, to ensure there is a clear entitlement for victim survivors to be and feel safe in a court. This would be achieved through:

- safe entries and exits
- safe waiting spaces
- special access arrangements for giving evidence, and
- protection in the courtroom (e.g. use of screens to shield from accused).

To support this, CSV should be the responsible agency under the VOCC Regulations. This means that, CSV will be an ‘agency’ for the purposes of the Charter, the Commissioner could investigate complaints and monitor compliance with Charter rights related to section 12 regarding court safety.

The Commissioner should also be able to investigate complaints and monitor compliance by CSV with the section 6 Charter principle (treated with courtesy, respect and dignity and be responsive to the needs of victim survivors), as discussed above.

Applying the section 6 Charter principles to defence barristers and solicitors

The Review also heard about the Charter’s potential application to defence barristers and solicitors (legal professionals). Unlike prosecuting counsel, defence barristers and solicitors are not included as agencies under the Charter nor covered by the requirement in section 18(2) to have regard to ‘implementing the Charter principles.

During consultations for this Review, the Commissioner was told that:

“defence counsel’s treatment in sexual assault cases can be particularly traumatic for victim survivors. It would be good if there was a way for the courtesy, dignity and respect principles to apply to defence counsel questioning.”³⁴¹

The Commissioner also heard from victim survivors about the importance of knowing that judicial officers and defence barristers and solicitors are covered by the Charter, and that victims have recourse if Charter principles are not complied with.³⁴²

Two separate Law Reform Commission reports found that giving evidence, and particularly being cross-examined, can be one of the most difficult and distressing aspects of the criminal trial process for victim survivors.³⁴³

³⁴⁰ Section 13 *Victims’ Charter Act 2006* (Vic) might simply be amended to make it clear that the Court is responsible for ensuring that a Victim Impact Statement may be delivered to court by a victim.

³⁴¹ Consultation meeting Victims’ Charter Review 2024/25 - Bendigo Region - sexual assault services, SOCIT Victoria Police, Child Protection, Victims’ Assistance Program, family violence services, community legal service, multicultural services.

³⁴² Confidential victim survivor interviews February – March 2025; Consultation meeting Victims’ Charter Review 2024/25 - Victim Survivors’ Advisory Council.

³⁴³ Victorian Law Reform Commission, *The Role of Victims of Crime in the Criminal Trial Process* (Report No 34, August 2016) 93 [5.36] <https://www.lawreform.vic.gov.au/wp-content/uploads/2021/07/VLRC_Victims-Of-Crime-Report-W.pdf>; Australian Law Reform Commission, *Safe, Informed, Supported: Reforming Justice Responses to Sexual Violence* (Report 143, 6 March 2025) 354 [12.5] <<https://www.alrc.gov.au/wp-content/uploads/2025/02/JRSV-Final-Report-Book-for-Web-final-20250211.pdf>>.

The VLRC Report, *The Role of Victims of Crime in the Criminal Trial Process* said that many victim survivors they consulted felt disrespected by the way they were treated during cross-examination and the type of questions they were asked. The found it humiliating, brutal, abrupt, traumatising, aggressive, insensitive, damaging and bullying.³⁴⁴

The Australian Law Reform Commission Report, *Safe, Informed, Supported: Reforming Justice Responses to Sexual Violence* referred to submissions which described the process of cross-examination as ‘degrading’, ‘aggressive’, ‘humiliating’ and ‘traumatising’.³⁴⁵

This Review acknowledges that the application of the Charter to defence barristers and solicitors is complex as the role of the defence is premised upon rigorously testing the evidence of prosecution witnesses, including victim survivors. As the VLRC Report acknowledges:

“Cross-examination involves challenging the accuracy or truthfulness of a victim’s evidence and drawing out inconsistencies and inaccuracies in their version of events. Therefore, cross-examination that is not improper may still make a victim feel offended, humiliated, or distressed.”³⁴⁶

The rules regarding the conduct of lawyers admitted to practice in Victoria are set out in the Legal Profession Uniform Rules provided for under the *Legal Profession Uniform Law Application Act 2014* (Vic) (Legal Profession Act). These enable the Victorian Legal Services Board and Commissioner (VLSBC) to regulate and investigate complaints about the possible misconduct of legal practitioners in Victoria.³⁴⁷

The section 6 Charter principle (treated with courtesy, respect and dignity and be responsive to the needs of victim survivors) appears to be covered by the broad notion of conduct under the Legal Profession Act. However, as with the Judicial Commission Act, the Legal Profession Act should also be amended to ensure the instruments are aligned – that the VLSBC complaints process encompasses non-compliance with section 6 of the Charter.

³⁴⁴ Victorian Law Reform Commission, *The Role of Victims of Crime in the Criminal Trial Process* (Report No 34, August 2016) 93 <https://www.lawreform.vic.gov.au/wp-content/uploads/2021/07/VLRC_Victims-Of-Crime-Report-W.pdf>.

³⁴⁵ Australian Law Reform Commission, *Safe, Informed, Supported: Reforming Justice Responses to Sexual Violence* (Report 143, 6 March 2025) 354 <<https://www.alrc.gov.au/wp-content/uploads/2025/02/JRSV-Final-Report-Book-for-Web-final-20250211.pdf>>.

³⁴⁶ Victorian Law Reform Commission, *The Role of Victims of Crime in the Criminal Trial Process* (Report No 34, August 2016) 96 <https://www.lawreform.vic.gov.au/wp-content/uploads/2021/07/VLRC_Victims-Of-Crime-Report-W.pdf>.

³⁴⁷ Victorian Legal Services Board and Commissioner, *Before making an enquiry or complaint* (Web Page 1 July 2025) <[Before making an enquiry or complaint | Victorian Legal Services Board and Commissioner](#)>.

Recommendation 12

The *Victims' Charter Act 2006* (Vic) and other relevant legislation should be amended to apply appropriate rights and responsibilities to the Court in its engagement with victim survivors, including by amending:

- a. the *Victims' Charter Act 2006* (Vic) to ensure that section 6 will apply to all judicial officers, defence barristers and solicitors, justice and victims' services agencies and employees interacting with victims during all justice processes, hearings and trials
- b. the *Victims' Charter Act 2006* (Vic) in Part 3 (s 18(2)) to expressly state that "a person or body responsible for...the administration of criminal justice" includes judicial officers and Court Services Victoria
- c. the *Victims' Charter Act 2006* (Vic) and the *Victims of Crime Commissioner Act 2015* (Vic) to provide that any non-compliance with the section 6 Charter principle by judicial officers, defence barristers and solicitors could be the basis for a victim survivor to make a complaint to the relevant professional conduct or complaints body (Judicial Commission of Victoria and the Victorian Legal Services Board and Commissioner)
- d. the *Victims of Crime Commissioner Act 2015* (Vic) to expand the functions of the Victims of Crime Commissioner to include:
 - o engagement with the Judicial Commission of Victoria and the Victorian Legal Services Board and Commissioner
 - o sharing of information among these agencies regarding individual and systemic non-compliance with the Charter
 - o the development of education and awareness-raising measures, and
- e. the Judicial Commission of Victoria and the Victorian Legal Services Board and Commissioners' codes of conduct and relevant legislation to recognise the section 6 Charter principles, when investigating complaints made by victims of crime about their treatment by judicial officers and barristers and solicitors during a justice process.

Recommendation 13

The *Victims' Charter Act 2006* (Vic) should be amended to include the responsibilities of Court Services Victoria to:

- a. include a new category of agency that will include Court Services Victoria. This new category of agency will be required to treat persons adversely affected by crime with courtesy, respect and dignity and take into account and respond to their needs (section 6 Charter principle), minimise contact between victims and the accused in court buildings (section 12 Charter principle) to provide for victim survivors' safety in Court
- b. enable the definition of 'agency' in the *Victims' Charter Act 2006* (Vic) to include the new category of agency that includes Court Services Victoria and to ensure the Charter complaints and monitoring compliance applies to Court Services Victoria
- c. enable the definition of 'agency' in the *Victims of Crime Commissioner Act 2015* (Vic) to include the new category of agency that includes Court Services Victoria and to ensure the Charter complaints and monitoring process applies to Court Services Victoria
- d. enable the Victims of Crime Commissioner Regulations 2020 (Vic) to specify Court Services Victoria as a prescribed agency, and
- e. clarify that the implementation of this recommendation will not interfere with the exercise of the jurisdiction of a court or direct a court as to the manner or outcome of the exercise of its judicial function in any case or any other judicial or quasi-judicial function.

Recommendation 14

The *Victims' Charter Act 2006* (Vic) should be amended to ensure there is a clear victim survivor entitlement to safety in courts through:

- safe entries and exits
- safe waiting spaces
- special access arrangements for giving evidence, and
- protection in the courtroom (e.g. use of screens to shield from the accused).

Court Services Victoria should be the responsible agency.

CHAPTER

7

Improving the Charter's complaints processes

THE RIGHT TO MAKE A COMPLAINT

Victim survivors have a right to make a complaint about non-compliance with a Charter principle by a justice or victims' services agency. This is provided for in both the Charter and the VOCC Act.

The Charter sets out the complaints system for victim survivors who believe that a justice and victims' service agency has not complied with the Charter.³⁴⁸ It requires justice and victims' service agencies to:

- institute and operate a system to receive and resolve complaints from victim survivors in respect of the agency's compliance with the Charter principles
- inform victim survivors about the complaints processes where a victim survivor believes an agency has not upheld a Charter principle
- provide complaints systems that are accessible, transparent and offer fair and reasonable remedies, and
- inform victim survivors of their complaints system and a victim survivor's right to have a complaint reviewed under the VOCC Act.

The Commissioner's complaints functions are set out in the VOCC Act.³⁴⁹ The VOCC Act and the Charter provide the complaints framework. The framework includes:

- who is eligible to make a complaint
- how to make a complaint
- how the Commissioner will investigate a complaint, and
- the possible outcomes of a complaint.

Under the VOCC Act, a victim survivor can only make a complaint to the Commissioner if they:

- meet the definition of victim in the Charter
- have first made a complaint to the agency under section 19B of the Charter, and
- are 'dissatisfied with the agency's response to that complaint'.³⁵⁰

CURRENT AWARENESS OF THE CHARTER'S COMPLAINTS PROCESS

“Knowing that you could make a complaint would be a good starting point.”³⁵¹

³⁴⁸ *Victims' Charter Act 2006* (Vic) s 19, s 19A and s 19B.

³⁴⁹ *Victims of Crime Commissioner Act 2015* (Vic) Pt 2 div 3A – Complaints about compliance with the Charter principles.

³⁵⁰ *Victims of Crime Commissioner Act 2015* (Vic) s 25A.

³⁵¹ Confidential victim survivor interviews February – March 2025.

Along with their low awareness of the Charter itself, most victim survivors consulted by the Commissioner had not heard about the Charter complaints process:

72%

of survey participants said they were not told about the complaints processes in justice agencies and victims' services providers.

58%

of survey respondents were not aware the Commissioner could hear complaints about their treatment by justice agencies.

“ I was not aware of the VOCC complaints process.³⁵²

“ In the six years I have been trying to finish my statement with SOCIT, including a proven complaint to Professional Standards, not a single VicPol member has told me about the Victims Charter, my rights, or that I can complain.³⁵³

The Review heard that victim survivors want a complaints system that addresses their needs in a simple, responsive and timely way.

THE VALUE OF A ROBUST COMPLAINTS FRAMEWORK

Complaints identify where the system is failing to provide safe and respectful treatment for victim survivors. A complaints process also allows the Commissioner to gather data and systemic trends about Charter non-compliance and identify improvements.

A complaints process that addresses non-compliance with the Charter principles reinforces that victim survivors' experiences of the criminal justice system are taken seriously and acted on.

Based on consultations during this Review, victim survivors would benefit from significant improvements to Charter complaints processes, including:

- justice and victims' services agencies implementing structured feedback processes, in addition to formal complaints processes that are also trauma informed
- the requirement for a victim survivor to first complain to an agency being removed
- the Commissioner being empowered to have multiple ways to resolve a complaint including facilitated resolution and assisted referrals
- the Commissioner having enhanced powers to oversee and report on the progress of recommendations from complaints outcomes, and
- the Commissioner having enhanced powers to formally refer matters relating to their functions to additional agency heads.

³⁵² Confidential victim survivor interviews February – March 2025.

³⁵³ Victims of Crime Commissioner online victim survivors survey November 2024 – March 2025.

Victim survivors' and stakeholders' experiences and views

RELUCTANCE TO MAKE A COMPLAINT

“As a victim it is extremely intimidating to make a complaint about the justice system. In the justice system they all know what they are doing and, as a victim, you have no idea. They have all the power.”³⁵⁴

During this Review the Commissioner heard that when there is a failure to comply with the Charter, some victim survivors are reluctant to initiate formal complaints processes. This is due to many factors, including a perception of 'power imbalance',³⁵⁵ fear of being labelled a 'complainant',³⁵⁶ a fear of reduction in service or service quality and 'ramifications'³⁵⁷ for case progress.³⁵⁸

“Victims can be reluctant to make a complaint because of the ramifications.”³⁵⁹

“I didn't want to talk to the police, I spoke to the FV support person at court.”³⁶⁰

“It feels so hard, where do I start?”³⁶¹

“Many victim survivors feel silenced by their experience and have no power so don't even want to make a complaint.”³⁶²

OPPORTUNITY TO PROVIDE FEEDBACK

“Perhaps it would be better to use the terms 'feedback' or 'evaluation' or 'improvement'. It would be good to have prompts like 'Were you treated with courtesy, dignity and respect?'”³⁶³

Stakeholders suggested to the Commissioner that victim survivors should be able to give feedback to agencies and victims' services providers.

³⁵⁴ Consultation meeting Victims' Charter Review 2024/25 - Victim Representatives - Victims of Crime Consultative Committee.

³⁵⁵ Consultation meeting Victims' Charter Review 2024/25 - Victim Representatives - Victims of Crime Consultative Committee.

³⁵⁶ Consultation meeting Victims' Charter Review 2024/25 - Victim Survivors' Advisory Council.

³⁵⁷ Confidential victim survivor interviews February – March 2025.

³⁵⁸ Written submission Victims' Charter Review 2024/25 – GenWest.

³⁵⁹ Confidential victim survivor interviews February – March 2025.

³⁶⁰ Consultation meeting Victims' Charter Review 2024/25 - Lived Experience Experts Network Youth representatives.

³⁶¹ Consultation meeting Victims' Charter Review 2024/25 - Lived Experience Experts Network Youth representatives.

³⁶² Consultation meeting Victims' Charter Review 2024/25 - Victims of Crime Commissioner's Lived Experience Advisory Group.

³⁶³ Consultation meeting Victims' Charter Review 2024/25 - Victims of Crime Commissioner's Lived Experience Advisory Group.

Some victim survivors indicated that they could benefit from the option of providing an agency with feedback, in addition to the formal complaints process. They said that the 'opportunity to provide feedback' to services is rarely available.³⁶⁴ Victim survivors advised that a more proactive approach is needed, where services 'check in with victims more often along the way'³⁶⁵ and where victims 'are surveyed at key stages to assess how agencies are treating them (e.g. at the end of the investigation or court process)'.³⁶⁶

Similarly, we heard from the Commissioner's Lived Experience Advisory Group that agencies should be required to have feedback processes with a 'proactive' requirement for agencies to check in with victims about their experience of the process – even during the process.³⁶⁷

Victim survivors provided suggestions for how victim survivors can provide feedback:

“It needs to be easy and user friendly. It should also use empowering words, something like ‘Your experience matters. Let us know how we’ve done’.”³⁶⁸

Safe and Equal advised the Commissioner that agencies should be embedding a process of 'seeking feedback and using this information to implement continuous quality improvement'.³⁶⁹

The Review's survey responses showed the importance of data to drive improvements for victim survivors. This was echoed at a regional roundtable where victims' services providers suggested that Victims Assistance Programs 'could benefit from de-identified survey results similar to independent quality surveys that patients are asked to complete in health care settings like hospitals'.³⁷⁰

The addition of a feedback option allows agencies to actively and periodically engage with victim survivors to check whether their experiences are consistent with best practice in upholding the Charter principles.

In its review of Victoria's victim support system, the Centre for Innovative Justice identified the importance of a feedback culture for victim survivors, finding that continuous improvement in the victim support sector should be 'underpinned by a strong feedback culture, with all services to establish client feedback processes'.³⁷¹

³⁶⁴ Confidential victim survivor interviews February – March 2025.

³⁶⁵ Consultation meeting Victims' Charter Review 2024/25 - Victims of Crime Commissioner's Lived Experience Advisory Group.

³⁶⁶ Consultation meeting Victims' Charter Review 2024/25 - Victims of Crime Commissioner's Lived Experience Advisory Group.

³⁶⁷ Consultation meeting Victims' Charter Review 2024/25 - Victims of Crime Commissioner's Lived Experience Advisory Group.

³⁶⁸ Consultation meeting Victims' Charter Review 2024/25 - inTouch NOOR Victim Survivor Advocates.

³⁶⁹ Written submission Victims' Charter Review 2024/25 - Safe and Equal.

³⁷⁰ Consultation meeting Victims' Charter Review 2024/25 - Wimmera Region - sexual assault services, family violence services, Victim Assistance Program, Orange Door.

³⁷¹ Centre for Innovative Justice, *Strengthening Victoria's Victim Support System: Victim Services Review* (Final Report, November 2020) 189 <<https://cij.org.au/cms/wp-content/uploads/2020/11/strengthening-victorias-victim-support-system-victim-services-review-centre-for-innovative-justice-november-2020.pdf>>.

A PRACTICE OF SURVEYING VICTIM SURVIVORS

The Victim Witness Assistance Service (VWAS) at the Office of Public Prosecutions is currently trialling a pilot victim feedback survey. The survey enables victim survivors to share information about their experience that will help them understand what they are doing well and where they can improve.³⁷²

The Commissioner's Lived Experience Advisory Group observed that 'we should celebrate agencies that are using best practice' and 'positive and negative feedback is important. Embrace a culture of learning by providing feedback.'³⁷³ The VWAS pilot demonstrates that when feedback is valued by an organisation it can improve outcomes for victim survivors.

Creating a feedback loop 'in real time to agencies' could reduce the possible number of complaints that an agency would otherwise receive by proactively addressing issues as early as possible.³⁷⁴ Providing a feedback option also removes the limitation of victim survivors only having a formal complaint mechanism and builds in added flexibility for agencies to engage with victim survivors. Victim survivors told the Commissioner that using feedback surveys allows victim survivors to participate in a less 'formal'³⁷⁵ process where they do not 'have fear of retribution'³⁷⁶ and are respected with a 'feeling of control rather than being a passenger'.³⁷⁷

CREATING NEW FEEDBACK MECHANISMS FOR VICTIM SURVIVORS

Based on consultations during the Review, the Review recommends that section 19A of the Charter be amended to require justice and victims' service agencies to implement new Charter feedback mechanisms in addition to complaints processes.

Justice and victims' service agencies should also be required to ensure feedback and complaints systems are trauma informed. A trauma informed system gives victim survivors the choice to provide feedback, rather than pursue a formal complaints option. It recognises the impact of power imbalance for victim survivors who engage with agencies.³⁷⁸ A trauma informed approach ensures people feel empowered rather than alienated by complaints and feedback processes, encouraging victim survivors to feel safe to give feedback or make complaints.³⁷⁹

³⁷² Consultation meeting Victims' Charter Review 2024/25 - Victim Witness Assistance Service; Agency Update to the Consultation meeting Victims' Charter Review 2024/25 - Victims of Crime Consultative Committee.

³⁷³ Consultation meeting Victims' Charter Review 2024/25 - Victims of Crime Commissioner's Lived Experience Advisory Group.

³⁷⁴ Confidential victim survivor interviews February – March 2025.

³⁷⁵ Consultation meeting Victims' Charter Review 2024/25 - inTouch NOOR Victim Survivor Advocates.

³⁷⁶ Consultation meeting Victims' Charter Review 2024/25 - inTouch NOOR Victim Survivor Advocates.

³⁷⁷ Confidential victim survivor interviews February – March 2025.

³⁷⁸ Victorian Ombudsman, *Good Practice Guide: Complaint Handling for Victorian Public Sector Organisations* (April 2025) 11 <<https://assets.ombudsman.vic.gov.au/assets/Best-Practice-Guides/VO-Good-practice-guide-Complaint-handling-for-Victorian-public-sector-organisations.pdf>>.

³⁷⁹ Victorian Ombudsman, *Good Practice Guide: Complaint Handling for Victorian Public Sector Organisations* (April 2025) 11 <<https://assets.ombudsman.vic.gov.au/assets/Best-Practice-Guides/VO-Good-practice-guide-Complaint-handling-for-Victorian-public-sector-organisations.pdf>>.

For the recommended changes to be effective, a compliance mechanism is required. Justice and victims' service agencies should be required to report annually to the Commissioner on feedback received about adherence to the Charter principles, including any trends or themes.

The Victims of Crime Commissioner would be required to report feedback received in their annual report as part of trend data in its annual report. This would provide a transparent system-wide and victim survivor-focused perspective on Charter compliance, identifying areas of best practice and where improvements need to occur.

Recommendation 15

The *Victims' Charter Act 2006* (Vic) and the *Victims of Crime Commissioner Act 2015* (Vic) should be amended to require:

- a. justice and victims' services agencies to implement trauma informed complaints and structured feedback systems under Section 19A of the Victims' Charter
- b. justice and victims' services agencies report annually and thematically to the Victims of Crime Commissioner on feedback received, and
- c. the Victims of Crime Commissioner to report trend data in their annual report.

The requirement to make a complaint directly to the agency

“Victims need to know they can make a complaint.”³⁸⁰

The Commissioner frequently heard during the Review that victim survivors are dissatisfied with the requirement to first make a complaint to the agency, before contacting the Commissioner to complain.

Victim survivor dissatisfaction included fear of making a complaint directly, that the process is futile, and is not independent or trustworthy:

“In my 19 years within the justice system, my rights under the Victims' Charter were breached many times. Out of all those times I only complained once. Making a complaint was terrifying...It nearly killed me to make the first complaint so I wouldn't have had it in me to complain to the VOCC after that complaint.”³⁸¹

“Don't understand why I had to go to the agency before coming to the VOCC. Annoyed that I had to go through a process that I thought would be a waste of time.”³⁸²

³⁸⁰ Confidential victim survivor interviews February – March 2025.

³⁸¹ Consultation meeting Victims' Charter Review 2024/25 - Victim Representatives - Victims of Crime Consultative Committee.

³⁸² Confidential victim survivor interviews February – March 2025.

“ The Commissioner should be able to receive complaints from victims without the victim-survivor first making a complaint to the police. This is unfair and blocks victims from making a complaint to an independent body – especially if the nature of the complaint is police misconduct.³⁸³

“ I don't know if everyone would feel comfortable making a complaint to police as you don't want to be on the wrong side of police.³⁸⁴

“ I think a good complaints process has to be independent of the service that you're complaining about.³⁸⁵

“ If is not always safe or viable to report directly to the agency and victim survivors are not sure about what will happen after they have made a complaint.³⁸⁶

“ Yes, it is so hard for a victim to 'fight' with an offending agency. Commissioner is the 'safe' option to speak to.³⁸⁷

The Commissioner also heard specifically from young victim survivors that, in order to make a complaint, they needed to feel comfortable with and trust the person to whom they complain:

“ If it's about the police, you might not want to talk to the police.³⁸⁸

“ Need to support people making complaints.³⁸⁹

“ Having a worker that could advocate for me would be so good – knowing where to go and being brave.³⁹⁰

“ You shouldn't have to make a complaint to the agency first.³⁹¹

Members of GenWest's Survivor Advisory Group advised the Review of the fear and re-traumatisation that can occur for victim survivors when they are forced to make complaints directly to a service that has failed them.³⁹²

³⁸³ Victims of Crime Commissioner online victim survivors survey November 2024 – March 2025.

³⁸⁴ Confidential victim survivor interviews February – March 2025.

³⁸⁵ Consultation meeting Victims' Charter Review 2024/25 - Lived Experience Experts Network Youth representatives.

³⁸⁶ Consultation meeting Victims' Charter Review 2024/25 - Victims of Crime Commissioner's Lived Experience Advisory Group.

³⁸⁷ Consultation meeting Victims' Charter Review 2024/25 - Victim Representatives - Victims of Crime Consultative Committee.

³⁸⁸ Consultation meeting Victims' Charter Review 2024/25 - Lived Experience Experts Network Youth representatives.

³⁸⁹ Consultation meeting Victims' Charter Review 2024/25 - Lived Experience Experts Network Youth representatives.

³⁹⁰ Consultation meeting Victims' Charter Review 2024/25 - Lived Experience Experts Network Youth representatives.

³⁹¹ Consultation meeting Victims' Charter Review 2024/25 - Lived Experience Experts Network Youth representatives.

³⁹² Written submission Victims' Charter Review 2024/25 – GenWest.

The Commissioner was told by a range of stakeholders that the requirement to complain to the agency first is a barrier and should be removed with victim survivors able to make complaints directly to the Commissioner.³⁹³

“Better for victim to have choice to go to the Victims of Crime Commissioner rather than directly to an agency in a regional or rural area.”³⁹⁴

“Victims are afraid to complain to the agency because scared that next time they need a service it won't be provided.”³⁹⁵

Stakeholders identified the lack of trauma informed responses and the power imbalance facing victim survivors when they must first complain to an agency about non-compliance with of a Charter principle. For example, the Federation of Community Legal Centres described this as 'returning to [the] agency, where they may have experienced significant barriers and victimisation'.³⁹⁶

During the Review, at a regional roundtable, service providers acknowledged the difficulty for victim survivors who are required to re-tell their story to an agency and then to the Commissioner. They suggested it is 'more trauma informed to be able to choose'.³⁹⁷ Similarly, at a roundtable in Bendigo, the Commissioner was told that 'there is a huge power imbalance for victims to complain directly to agencies, such as Victoria Police, and many victims feel too uncomfortable to make a complaint'.³⁹⁸

Complaints made directly to agencies are not often resolved satisfactorily, which then limits a victim survivor's willingness to persist with the Commissioner's complaints process:

“it's still ultimately just a very unfulfilling process. Victims don't really feel like they were heard and seen, and then they end up in a position where they made the decision to make the complaint and then they just feel like they're not believed and the system's let them down. They can go to the Commissioner and make a complaint but at that point they've already gone through so much that they've lost faith.”³⁹⁹

³⁹³ Written submission Victims' Charter Review 2024/25 - Safe and Equal; Written submission Victims' Charter Review 2024/25 - SASVic; Consultation meeting Victims' Charter Review 2024/25 - Roundtable Victoria Legal Aid and Community Legal Centres; Written submission Victims' Charter Review 2024/25 - Federation of Community Legal Centres; Written submission Victims' Charter Review 2024/25 - Victoria Legal Aid; Consultation meeting Victims' Charter Review 2024/25 - Bendigo Region - sexual assault services, SOCIT Victoria Police, Child Protection, Victim Assistance Program, family violence services, community legal service, multicultural services; Consultation meeting Victims' Charter Review 2024/25 - South West Region - sexual assault services, family violence services, Victim Assistance Program and specialist victims' legal service.

³⁹⁴ Consultation meeting Victims' Charter Review 2024/25 - Wimmera Region - sexual assault services, family violence services, Victim Assistance Program, Orange Door.

³⁹⁵ Consultation meeting Victims' Charter Review 2024/25 - Wimmera Region - sexual assault services, family violence services, Victim Assistance Program, Orange Door.

³⁹⁶ Written submission Victims' Charter Review 2024/25 - Federation of Community Legal Centres.

³⁹⁷ Consultation meeting Victims' Charter Review 2024/25 - South West Region - sexual assault services, family violence services, Victim Assistance Program and specialist victims' legal service.

³⁹⁸ Consultation meeting Victims' Charter Review 2024/25 - Bendigo Region - sexual assault services, SOCIT Victoria Police, Child Protection, Victim Assistance Program, family violence services, community legal service, multicultural services.

³⁹⁹ Consultation meeting Victims' Charter Review 2024/25 - Roundtable Victoria Legal Aid and Community Legal Centres.

SOME VICTIM SURVIVORS FACE ADDITIONAL VULNERABILITIES AND BARRIERS TO REPORTING COMPLAINTS

A victim survivor should not be required to first complain to the relevant agency where:

- Sexual and family violence has occurred, and victim survivors do not feel safe or supported to first complain to the relevant agency. In their submission to the Review, SASVic outlined that where complaints are made first to agencies, victim survivors of sexual violence can sometimes receive a harmful response from police or have harm compounded by virtue of needing to re-tell their experience.⁴⁰⁰
- A victim survivor alleges they have not been supported by the agency in a culturally safe manner.⁴⁰¹ In their submission to the Review, Victoria Legal Aid stated that the current process of complaining directly to the agency ‘risks a potential referral roundabout for a victim and the potential for re-traumatisation if they are required to repeat their story.’⁴⁰²
- Complaints are made by Aboriginal victim survivors. The Victorian Aboriginal Legal Service (VALS) told the Review about specific barriers for Aboriginal victim survivors. They said ‘Aboriginal people do not use the Charter complaints mechanism as it is unlikely to result in any meaningful outcome for them. Without significant change to the Charter’s enforceability regime, VALS could not reasonably recommend its complaints process to our clients.’⁴⁰³ VALS suggested that to remove these barriers the ‘complaints mechanisms should also be amended so complaints can be made directly to the VOCC, without the requirement for victims to have first made a complaint to the agency’.⁴⁰⁴
- Victim survivors face discrimination based on their gender. During an interview for the Review, a victim survivor shared their experience:

“ After learning from the VOCC that I needed to first complain to the agency, I made a complaint to [the agency]. [The agency] was not helpful at the beginning and defensive but query whether my gender was an issue as the majority of sexual assault victims are women. [A senior representative of the agency] did become involved eventually with the complaint however did not accept any responsibility and referred to me using an incorrect pronoun within the apology email, which reaffirmed my suspicion of the reason I was being ignored was because I was a male.⁴⁰⁵

⁴⁰⁰ Written submission Victims’ Charter Review 2024/25 – SASVic.

⁴⁰¹ Written submission Victims’ Charter Review 2024/25 - Victoria Legal Aid.

⁴⁰² Written submission Victims’ Charter Review 2024/25 - Victoria Legal Aid.

⁴⁰³ Written submission Victims’ Charter Review 2024/25 - Victorian Aboriginal Legal Service.

⁴⁰⁴ Written submission Victims’ Charter Review 2024/25 - Victorian Aboriginal Legal Service.

⁴⁰⁵ Confidential victim survivor interviews February – March 2025.

The Commissioner heard that many stakeholders were broadly supportive of removing the requirement that victim survivors first complain of Charter non-compliance to the agency. However, not all stakeholders were supportive, noting that if the requirement to make a complaint to an agency first were removed the Commissioner could be overwhelmed with a high volume of complaints without adequate resources to address the demand.⁴⁰⁶

The Review also heard that allowing victim survivors to make a complaint to the Commissioner, without first engaging with an agency 'takes the onus away from the agency to resolve the complaint'.⁴⁰⁷

PROPOSED CHANGES TO ACCESSING THE VICTIMS OF CRIME COMMISSIONER'S COMPLAINTS PROCESS

The Charter and VOCC Act currently give no scope for the Commissioner to consider a complaint in the circumstances where the victim survivor is unable to, or it is unreasonable for them to go directly to the agency. Victoria is the only jurisdiction where this restriction exists.

In other Australian jurisdictions, victim survivors have the option of complaining directly to the relevant Commissioner or agency. The option to complain directly to the Commissioner in Queensland is provided expressly in legislation.⁴⁰⁸ In Western Australia, the Victims of Crime Commissioner states, on their website, that the first step for victim survivors is to raise the complaint with the agency directly, unless they do not feel comfortable doing so.⁴⁰⁹

⁴⁰⁶ Consultation meeting Victims' Charter Review 2024/25 - Victims of Crime Commissioner's Lived Experience Advisory Group.

⁴⁰⁷ Consultation meeting Victims' Charter Review 2024/25 - Victims of Crime Commissioner's Lived Experience Advisory Group.

⁴⁰⁸ *Victims' Commissioner and Sexual Violence Review Board Act 2024* (Qld) s 45(2)(d).

⁴⁰⁹ Department of Justice (WA), 'Breach of Victim Treatment Guidelines: Complaints Process' (Web Page, 25 March 2025) <<https://www.wa.gov.au/organisation/departments-of-justice/commissioner-victims-of-crime/breach-of-victim-treatment-guidelines-complaints-process>>; See also: Victims of Crime South Australia, 'Victim Complaints' (Web Page) <<https://www.voc.sa.gov.au/your-rights/feedback-and-complaints>>; Victims Services (NSW), 'Charter Complaints' (Web Page, February 2025) <<https://victimsservices.justice.nsw.gov.au/victims-rights/charter-of-victims-rights/charter-complaints.html>>.

In Victoria, the following bodies are entitled to receive a complaint directly, without a person first complaining to the agency that is the subject of the complaint:

- Disability Services Commissioner
- Health Complaints Commissioner
- Mental Health and Wellbeing Commissioners
- Victorian Ombudsman.

Removing the requirement that a victim survivor must first make a complaint to the agency would recognise victim survivor and stakeholder feedback and better align Victorian practice with Victims' Commissioners in other jurisdictions.

This change also reflects a trauma informed approach, empowering victim survivors with the choice to decide which agency they are comfortable complaining. In 2025 the Commissioner's office has undertaken an external review of its complaints processes and found that a key principle of a trauma informed complaints process is providing 'empowerment, voice and choice' for victim survivors.

This recent external review of the Commissioner's complaints processes also identified the removal of the requirement to first complain to an agency as a priority action.

The Review recommends that it no longer be a requirement that a victim survivor first complain to the agency. However, the Commissioner would still retain broad discretion under section 25G of the VOCC Act to decline to consider a complaint if the agency has not finalised its investigation or if the Commissioner is satisfied it is appropriate to decline. This will provide:

- flexibility for the Commissioner to take complaints without a victim survivor reporting directly to the agency in circumstances where it would be appropriate to do so (e.g. the victim survivor has safety or wellbeing concerns), and
- appropriate safeguards for the Commissioner to decline to consider complaints where it would be appropriate for the agency to have an opportunity to first rectify the issue and/or finalise the complaint via the agency's internal complaints mechanisms.

The Commissioner acknowledges concerns from some stakeholders that this may increase the number of complaints received by the Commissioner and there may be associated impact on resourcing. However, ensuring the Charter operates to protect victims' fundamental rights must be paramount.

The proposed changes to accessing the complaints process at the Commissioner's office are displayed in the diagram below at Table 4.

TABLE 4. Proposed improvements to accessing the Victim of Crime Commissioner's complaints process

Improvement	Detail
Provide feedback to justice and victims' services agencies	• New option if complaint process is not preferred by a victim survivor. • The <i>Victims' Charter Act 2006</i> (Vic) should be amended at section 19A to require justice and victims' services agencies to have a feedback process available for victim survivors.
Make a complaint for non-compliance with a Charter directly to the Commissioner without first going to the justice and victims' service agency	• The requirement to first complain to the justice and victims' service agency regarding non-compliance with a Charter right is a barrier for victim survivors and can be retraumatising and not culturally safe. • Amend both the <i>Victims' Charter Act 2006</i> (Vic) and the <i>Victims of Crime Commissioner's Act 2015</i> (Vic) to remove the requirement to first complain to a justice and victims' service agency.
Ensure trauma informed and culturally safe complaint processes	• Bolster complaint processes to be more trauma informed by providing early resolution options including facilitated resolution and assisted referral approaches. • In 2025 the Victims of Crime Commissioner's office undertook an external review of its complaints processes. The review found that a key principle of a trauma informed complaints process is providing 'empowerment, voice and choice' for victim survivors. The office will continue to implement these principles.

Recommendation 16

The *Victims' Charter Act 2006* (Vic) and the *Victims of Crime Commissioner Act 2015* (Vic) should be amended:

- a. to remove the requirement that a victim survivor must first make a complaint to the justice and victims' services agency under section 25A(b) of the *Victims of Crime Commissioner Act 2015* (Vic) and section 19B of the *Victims' Charter Act 2006* (Vic))
- b. to ensure that section 19A(3) of the *Victims' Charter Act 2006* (Vic) requires justice and victims' services agencies to inform victim survivors that a complaint can be made either to the Victims of Crime Commissioner if dissatisfied with the agency's response to the complaint or directly to the Victims of Crime Commissioner who may investigate the complaint, and
- c. to ensure that section 25I of the *Victims of Crime Commissioner Act 2015* (Vic) provides that the Victims of Crime Commissioner may investigate whether a justice and victims' services agency has complied with the Victims' Charter principles if a victim survivor makes a complaint directly to the Victims of Crime Commissioner.

THERE SHOULD BE MULTIPLE WAYS TO RESOLVE A CHARTER COMPLAINT

The Commissioner heard from victim survivors that the barriers to the current complaints process could be addressed by providing a broader range of outcomes. Victim survivors suggested that multiple ways to resolve a complaint could include early intervention as well as facilitated meetings and conversations between the Commissioner and an agency.⁴¹⁰ The Commissioner's Lived Experience Advisory Group said:

“Using different methods to resolve issues rather than one single complaints process would be useful. This might be meeting with an agency, or the person making the complaint having support so they are more empowered when engaging with the agency they are complaining about.”⁴¹¹

Peak bodies, including SASVic and Safe and Equal, echoed victim survivors' support to establish multiple pathways for the Commissioner to resolve a complaint. SASVic support the introduction of a 'range of formal and informal resolution mechanisms available under the Victims' Charter and VOCC Act.'⁴¹² Safe and Equal felt that 'victims may find informal processes, including a facilitated conversation with the agency, or a restorative justice approach, more beneficial than entering into a formal dispute process.'⁴¹³

Members of GenWest's Survivor Advisory Group suggested that the Commissioner should be able to act on behalf of victims in negotiating with a justice agency to promote and advocate for their rights in resolution and complaints processes.⁴¹⁴ The Commissioner's Lived Experience Advisory Group told the Commissioner that it is 'not always safe or viable to report directly to the agency and victim survivors are not sure about what will happen after they have made a complaint.'⁴¹⁵

⁴¹⁰ Confidential victim survivor interviews February – March 2025.

⁴¹¹ Consultation meeting Victims' Charter Review 2024/25 - Victims of Crime Commissioner's Lived Experience Advisory Group.

⁴¹² Written submission Victims' Charter Review 2024/25 – SASVic.

⁴¹³ Written submission Victims' Charter Review 2024/25 - Safe and Equal.

⁴¹⁴ Written submission Victims' Charter Review 2024/25 – GenWest.

⁴¹⁵ Consultation meeting Victims' Charter Review 2024/25 - Victims of Crime Commissioner's Lived Experience Advisory Group.

In other Australian jurisdictions, Victims of Crime Commissioners have powers that allow for earlier intervention or more informal facilitated approaches to attempt to resolve matters. The South Australian Victims of Crime Commissioner can 'offer assistance to victims of crime in their dealings with prosecution authorities and government agencies, through information and advice.'⁴¹⁶ In the Australian Capital Territory, the Victims of Crime Commissioner can talk to the justice agency involved, on a victim's behalf, and ask them to provide documents or information to help resolve a concern, insofar as exercising a 'victims' rights concern.'⁴¹⁷ Victims of crime can also complain to the ACT Human Rights Commission.⁴¹⁸ The ACT Human Rights Commission might take a conciliation approach, which may lead to resolution outcomes such as improved communication pathways and reinstatement of services (or a change in how a service is provided).⁴¹⁹

In Victoria, the Health Complaints Commissioner provides facilitated direct resolution to resolve a complaint with a health service.⁴²⁰ This approach, which is provided for in legislation, and in a 'Complaint Resolution' Policy,⁴²¹ is described as the Commissioner must 'give reasonable assistance to a person who is making a complaint to the Commissioner.'⁴²² Examples of the Health Complaints Commissioner's facilitated direct resolution approach include, where complaints cannot be resolved quickly, arranging and facilitating meetings and negotiations between the parties.⁴²³

More robust processes for victim survivors to complain about their engagement with justice and victims' service agencies will help agencies improve and create benefits for victim survivors.

Accordingly, the Charter and the VOCC Act should be amended to introduce early intervention and prevention measures, including earlier and informal resolution of complaints by employing a flexible and broad range of complaints resolution approaches, such as facilitated resolution and assisted referrals.

⁴¹⁶ *Victims of Crime Act 2001* (SA) s 16(3)(b).

⁴¹⁷ Government of the Australian Capital Territory, *Charter of Rights for Victims of Crime: Victims Rights Guidelines* (Guidelines) 3 <[Charter-of-Rights-for-Victims-of-Crime.pdf](#)>.

⁴¹⁸ ACT Human Rights Commission, 'Services for Victims of Crime Complaints' (Web Page) <<https://www.hrc.act.gov.au/complaints/services-for-victims-of-crime-complaints>>.

⁴¹⁹ ACT Human Rights Commission, 'Conciliation' (Web Page) <<https://www.hrc.act.gov.au/complaints/conciliation>>.

⁴²⁰ *Health Complaints Act 2016* (Vic) s 11.

⁴²¹ Health Complaints Commissioner (Vic), *Complaint Resolution – Information for Consumers* (Fact Sheet) <<https://hcc.vic.gov.au/sites/default/files/media-document/complaintresolutionfactsheetfinal.pdf>>.

⁴²² *Health Complaints Act 2016* (Vic) s 11.

⁴²³ Health Complaints Commissioner (Vic), *Complaint Resolution – Information for Consumers* (Fact Sheet) <<https://hcc.vic.gov.au/sites/default/files/media-document/complaintresolutionfactsheetfinal.pdf>>.

Recommendation 17

The *Victims of Crime Commissioner Act 2015* (Vic) and the *Victims' Charter Act 2006* (Vic) should be amended to clarify that the Victims of Crime Commissioner can undertake earlier and more informal resolution of complaints by employing a broad range of approaches such as facilitated resolution and assisted referrals.

ENHANCED POWERS ARE NEEDED TO OVERSEE THE PROGRESS OF RECOMMENDATIONS MADE TO AGENCIES

Under section 25J(1) of the VOCC Act, after investigating a complaint about an agency, the Commissioner has a discretionary power to recommend that the agency take specific actions. These actions can include an apology, explanation or facilitated meeting, additional training, a change of policy or providing information. The Commissioner's recommendations cannot be directions or requirements and cannot be binding on the agency.

After the Commissioner has investigated a complaint, the VOCC Act does not expressly authorise the Commissioner to request information about an agency's implementation of recommendations.⁴²⁴ Similarly, there is no sanction for non-compliance with the requirement to provide information to the Commissioner about the implementation of recommendations.

In practical terms, this means that following the outcome of an investigation into a complaint for a breach of Charter principles, the Commissioner can currently make recommendations to justice and victims' service agencies but has no express power to monitor the implementation of the recommendations.

⁴²⁴ Section 25E of the VOCC Act is expressed in such a way that agencies are required to provide specified information to the Commissioner, relating to a complaint, if requested. However, the VOCC Act does not contain a clear provision requiring the agency subject to recommendations from the Commissioner, to engage with, implement and respond to the Commissioner's recommendations and requests for further information: *Victims of Crime Commissioner Act 2015* (Vic) s 25E.

OTHER JURISDICTIONS

In contrast to Victoria, the Queensland Victims' Commissioner is empowered by legislation to monitor the implementation of complaint recommendations.⁴²⁵

The Office of the Queensland Victims' Commissioner states on its website that it monitors the Victims' Commissioner's recommendations to check if the respective agency has implemented them. The Office also evaluates any action taken in response to a recommendation, which is reported in the Victims' Commissioner's annual report.⁴²⁶

In addition, where there is an unresolved complaint about a non-compliance with the Charter, the Queensland Victims' Commissioner can prepare a report which can be published.⁴²⁷ The report must include the substance of the complaint and the actions taken to resolve the complaint but cannot include personal information about an individual (unless previously published or given by the individual for the purpose of publication).⁴²⁸

ALLOWING THE COMMISSIONER TO MONITOR IMPLEMENTATION OF COMPLAINT RECOMMENDATIONS

In the absence of a clearly stated power to do so, the Review recommends the VOCC Act be amended to expressly provide that the Commissioner can monitor implementation of complaint recommendations and publicly report on implementation, where this would not identify individuals.

This recommendation provides victim survivors with certainty that the Commissioner will monitor and report on agencies' actions following the outcome of complaints. It also puts agencies on notice that the Commissioner must exercise this power and creates an opportunity for compliance and cultural change.

Monitoring would include the Commissioner setting out, in the Commissioner's annual report, any recommendations made. The annual report would also set out whether agencies have acted on the Commissioner's recommendations and have reported on actions taken.

This recommendation encourages Charter compliance and transparency in addressing victims' complaints regarding their rights under the Charter.

⁴²⁵ *Victims' Commissioner and Sexual Violence Review Board Act 2024* (Qld) s 9(h).

⁴²⁶ Office of the Victims' Commissioner (Qld), 'How We Deal With Complaints' (Web Page) <<https://www.victimscommissioner.qld.gov.au/make-a-complaint/how-we-deal-with-complaints>>.

⁴²⁷ *Victims' Commissioner and Sexual Violence Review Board Act 2024* (Qld) ss 54, 55.

⁴²⁸ *Victims' Commissioner and Sexual Violence Review Board Act 2024* (Qld) s 55.

Recommendation 18

The *Victims of Crime Commissioner Act 2015* (Vic) should be amended to:

- a. clarify that the Victims of Crime Commissioner will monitor a justice and victims' services agencies implementation of complaint recommendations and publicly report on implementation where this would not identify individuals
- b. clarify that the Victims of Crime Commissioner will report on a justice and victims' services agencies implementation of recommendations following the outcome of complaints investigations, and
- c. require justice and victims' service agencies to provide information on the implementation of recommendations, including at the request of the Victims of Crime Commissioner.

Agencies own reporting of Charter compliance needs to be more accountable

“Agencies should be required to report on the number of complaints and make this information publicly available.”⁴²⁹

Under the Charter, all agencies must have a complaints system in place.⁴³⁰ However, the Commissioner currently only receives complaints about a fraction of these agencies.

The Commissioner currently reports, in their annual report, on complaints received about prescribed agencies compliance with the Charter.⁴³¹ More scrutiny of complaints data from all justice and victims' services needs to occur.

A number of jurisdictions require agencies to publicly report on non-compliance with the Charter. For example, in Queensland, the Charter of victims' rights, enshrined in the *Victims' Commissioner and Sexual Violence Review Board Act 2024* (Qld), requires government entities to list all Charter-related complaints in their annual reports. The government entity must include:

- total number of complaints received
- number of complaints against each Charter right
- how the complaint was resolved, and
- number of complaints referred to other agencies to address.⁴³²

⁴²⁹ Victims of Crime Commissioner online victim survivors survey November 2024 – March 2025.

⁴³⁰ *Victims' Charter Act 2006* (Vic) s 19A.

⁴³¹ The Victims of Crime Commissioner's office received 205 enquiries in 2023–24, which represents a 4 per cent increase on 2022–23: Victims of Crime Commissioner (Vic), *Annual Report 2023–24* (Report, 2024) 34 <<https://victimsofcrimecommissioner.vic.gov.au/media/h3lfumim/annual-report-2023-2024-pdf-23mb.pdf>>.

⁴³² *Victims' Commissioner and Sexual Violence Review Board Act 2024* (Qld) s 59.

Similarly, in the Australian Capital Territory, entities who receive complaints of 'contraventions of the Charter' must report these complaints in their annual report.⁴³³

Reporting on Charter non-compliance and complaints is one avenue to provide visible, independent and transparent oversight of complaints. This reflects a victim survivor's observation, during a consultation for this Review, that 'a good complaints process has to be independent of the service you are complaining about.'⁴³⁴

The Review recommends that consideration be given to adopting the better practices of Queensland and the ACT whereby justice and victims' service agencies are required to list all Charter-related complaints (de-identified) and outcomes in their annual reports, making this information publicly available, and encouraging transparency and accountability.

Recommendation 19

The *Victims' Charter Act 2006* (Vic) should be amended and consequential amendments made to the *Victims of Crime Commissioner Act 2015* (Vic) to require justice and victims' services agencies to report annually on Charter complaints in their annual report and include information such as:

- a. total number of complaints received
- b. number of complaints against each Charter right
- c. how the complaint was resolved, and
- d. number of complaints referred to other agencies to address.

⁴³³ *Victims of Crime Act 1994* (ACT) s 181.

⁴³⁴ Consultation meeting 'Victims' Charter Review 2024/25 - Lived Experience Experts Network Youth Representatives.

7 Annual reporting on Charter complaints compliance to the Aboriginal Justice Caucus and the Victims of Crime Consultative Committee

During the Review, the Commissioner consulted with the Women, Families and Victims Collaborative Working Group, who oversee key *Burra Lotjpa Dunguludja* (Aboriginal Justice Agreement Phase 4) initiatives and emerging strategic projects arising from the Aboriginal Justice Forum. The Working Group requested that the Commissioner refer matters of non-compliance with the Charter, relating to Aboriginal victims of crime, to the Aboriginal Justice Caucus (AJC).⁴³⁵ This reporting function will provide the AJC with a systemic view of complaints made by Aboriginal victim-survivors and will assist with raising the profile of the Charter and measure its 'utility and effectiveness'.⁴³⁶ It would also address⁴³⁷ the feedback that the Charter is currently considered 'ineffective at protecting and articulating the rights of Aboriginal victims of crime'.⁴³⁸

The Systemic Inquiry recommended the appointment of an Aboriginal Social Justice Commissioner to address systemic barriers to participation in the justice system for Aboriginal peoples.⁴³⁹ An Aboriginal Social Justice Commissioner role, if established by the Government, would be an important referral point to receive information about complaints and feedback from Aboriginal victim survivors, where there is non-compliance with the Charter. Consideration of an Aboriginal Social Justice Commissioner is an action under the Aboriginal Justice Agreement and strongly supported by the AJC.⁴⁴⁰

In their submission to this Review, the Victorian Aboriginal Legal Service (VALS) reiterated the importance of establishing an Aboriginal Social Justice Commissioner to 'provide oversight for Aboriginal justice in Victoria including the treatment of Aboriginal victims of crime'.⁴⁴¹

⁴³⁵ Consultation meeting Victims' Charter Review 2024/25 - Women, Families and Victims Collaborative Working Group.

⁴³⁶ Written submission Victims' Charter Review 2024/25 - Victorian Aboriginal Legal Service.

⁴³⁷ Written submission Victims' Charter Review 2024/25 - Victorian Aboriginal Legal Service.

⁴³⁸ Written submission Victims' Charter Review 2024/25 - Victorian Aboriginal Legal Service.

⁴³⁹ Victims of Crime Commissioner, *Silenced and Sidelined: Systemic inquiry into victim participation in the justice system* (Report, November 2023) 28 (Recommendation 11) <[silenced-and-sidelined_systemic-inquiry-into-victim-participation.pdf](#)>.

⁴⁴⁰ Victorian Aboriginal Justice Agreement, Goal 4.1: Greater accountability for justice outcomes (Web page August 2024) <[Goal 4.1: Greater accountability for justice outcomes | Aboriginal Justice](#)>.

⁴⁴¹ Written submission Victims' Charter Review 2024/25 - Victorian Aboriginal Legal Service.

The VALS' written submission to the Review asked that the Commissioner 'collect and provide Aboriginal specific data to Aboriginal Community Controlled Organisations, in accordance with Aboriginal Data Sovereignty principles, on key measures of the Charter, such as the number of complaints made under the Charter, and the types of behaviours and crimes Aboriginal victims bring to the Commissioner.'⁴⁴²

The Victims of Crime Consultative Committee is as an important legislated forum to discuss improvements to policies, practices and service delivery for victims of crime.⁴⁴³ To further encourage transparency and accountability, the Commissioner expects that this Committee would also benefit from receiving information on Charter complaints (trends, issues, outcomes) including those received (and dealt with) by agencies and those received by the Commissioner.

Taking these steps in reporting annually to the Victims of Crime Consultative Committee and the AJC will address feedback from victim survivors who want to see systemic trends in complaints of non-compliance the Charter recorded and reported. This would help ensure that trends can be acted upon, and the 'burden' is not on individual victims to make complaints.⁴⁴⁴

Recommendation 20

The Victims of Crime Commissioner should report annually on *Victims' Charter Act 2006* (Vic) complaints (trends, issues, outcomes) including those received (and dealt with) by justice and victims' services agencies and those received by the Victims of Crime Commissioner:

- a. to the Aboriginal Justice Caucus (to be shared with Aboriginal Community Controlled Organisations), and
- b. by amending the *Victims of Crime Commissioner Act 2015* (Vic) to include reporting to the Victims of Crime Consultative Committee.

⁴⁴² Written submission Victims' Charter Review 2024/25 - Victorian Aboriginal Legal Service.

⁴⁴³ *Victims of Crime Commissioner Act 2015* (Vic) s 32(1)(a).

⁴⁴⁴ Consultation meeting Victims' Charter Review 2024/25 - inTouch NOOR Victim Survivor Advocates.

Commissioner needs to be able to refer matters to different agencies

The VOCC Act sets out the Commissioner's powers to interact with other agencies and to refer a matter that the Commissioner becomes aware of while exercising their functions.

A matter may relate to the Charter, including a complaint received in relation to non-compliance with Charter principles. These powers recognise the interactions that victim survivors may have with various parts of government.

The VOCC Act empowers the Commissioner to refer a matter that they become aware of, when exercising their functions, to the following:

- the Independent Broad-based Anti-corruption Commission⁴⁴⁵
- the Director of Public Prosecutions⁴⁴⁶
- the Chief Commissioner of Police⁴⁴⁷
- the Victorian Legal Services Commissioner,⁴⁴⁸ and
- the Ombudsman.⁴⁴⁹

This is a limited list of 'people' or agency heads to whom the Commissioner can refer a matter when exercising their functions. It does not allow the Commissioner to refer a matter to agency heads who may provide similar or related services. Nor does the limited list allow an initial query for a failure to comply with a Charter principle, where it becomes clear that the circumstances involve another agency.

Victim survivors interact with various government services. Expanding the Commissioner's ability to refer matters to more agency heads will benefit victim survivors.

If the referral power was expanded, to 'any other relevant person where it is deemed appropriate,' the Commissioner could formally refer a matter to the:

- Health Complaints Commissioner, regarding a complaint about the actions of a health service provider, engaged by a victim survivor, in the context of the Financial Assistance Scheme
- Commissioner for Children and Young People, regarding a complaint from a young person in residential care, and
- Judicial Commission, regarding a complaint about non-compliance with the respectful treatment principles under the Charter in respect of a judicial officer (refer [recommendation 12](#)).

⁴⁴⁵ *Victims of Crime Commissioner Act 2015* (Vic) s 26.

⁴⁴⁶ *Victims of Crime Commissioner Act 2015* (Vic) s 27(a).

⁴⁴⁷ *Victims of Crime Commissioner Act 2015* (Vic) s 27(b).

⁴⁴⁸ *Victims of Crime Commissioner Act 2015* (Vic) s 27(ba).

⁴⁴⁹ *Victims of Crime Commissioner Act 2015* (Vic) s 27(c).

In the ACT, if the Commissioner is unable to resolve a victim's rights concern, the Commissioner may (with the victim's consent) refer the concern to a relevant complaints entity including the human rights commission, ombudsman, integrity commission and importantly, '*any other entity authorised to investigate a complaint relating to the administration of justice*' (emphasis added).⁴⁵⁰ The ACT provision is slightly different because it is directed at referrals to organisations, in the context of the complaints function. In Victoria, the provision relates to referrals of matters relating to *all* of the Commissioner's functions (emphasis added). However, the ACT provision provides helpful guidance around the additional option of referring a matter to 'any other entity.'

The Commissioner's ability to conduct their functions for the benefit of victim survivors will be improved if the VOCC Act is amended to provide the Commissioner with the power to formally refer a matter to 'any other relevant person where it is deemed appropriate'. This amended referral power would provide the Commissioner with greater authority, flexibility and clarity to make referrals, giving victims confidence in the Commissioner's role and creating benefit for victim survivors who engage with various aspects of Government services.

Recommendation 21

The *Victims of Crime Commissioner Act 2015* (Vic) should be amended at section 27(1) to provide additional referral powers to the Victims of Crime Commissioner, in the course of exercising their functions, to 'any other relevant person where it is deemed appropriate.'

⁴⁵⁰ Of those jurisdictions with equivalent legislation (Queensland, South Australia and New South Wales) only the *Victims of Crime Act 1994* (ACT) has this referral power.: *Victims of Crime Act 1994* (ACT) s 18G(4)(d).

CHAPTER

8

Strengthening the Charter's compliance scheme

“ Greater accountability and compliance with the Victims’ Charter is critical to ensuring victims of crime are treated with dignity and respect.”⁴⁵¹

The Commissioner heard from many victim survivors and agencies that the Review provides an opportunity to:

- clarify the Commissioner’s role to monitor agencies’ compliance with the Charter, and
- consider giving the Commissioner additional compliance powers, including the ability to require an agency to take an action where there is agency non-compliance with the Charter.

When the Charter was enacted in 2006, the Commissioner’s role was not yet in existence (and was not established by legislation until 2015). Despite the central role the Commissioner plays in regulating justice agencies and victims’ services’ compliance with the Charter, and the requirement to do so set out in the VOCC Act, the Charter itself contains minimal references to the Commissioner’s role.

The Commissioner heard that ‘legislative recognition of the Commissioner’s role is important so that roles and functions are as transparent as possible for the benefit of victim survivors and the broader community.’⁴⁵² Some stakeholders noted ‘it is a significant gap that the Charter has not yet been amended to reflect the current role of the Commissioner.’⁴⁵³

This Review is an opportunity to better articulate the role of the Commissioner as an independent monitor of compliance with the Charter. This would provide clarity to victim survivors and agencies that agency compliance with the Charter is monitored and overseen by an independent Commissioner.

⁴⁵¹ Written submission Victims’ Charter Review 2024/25 - Federation of Community Legal Centres.

⁴⁵² Written submission Victims’ Charter Review 2024/25 – SASVic.

⁴⁵³ Written submission Victims’ Charter Review 2024/25 – SASVic.

The Commissioner's monitoring role

In 2016 the VLRC inquiry found that agencies were not treating victims as the Charter intended. In 2019, the Government amended the VOCC Act to empower the Commissioner to report on the compliance of agencies and services with the Charter. Each year, the Commissioner is required to report to the Attorney-General on the compliance of prescribed agencies with the Charter.⁴⁵⁴ Section 28(1A) of the VOCC Act sets out that the Commissioner must report annually to the Attorney-General:

- information about prescribed agencies⁴⁵⁵ compliance with the Charter
- the number, type and outcome of complaints made to, and processed, by the Commissioner in that year about prescribed agencies' compliance with Charter principles.

The Commissioner has a compliance role to ensure that justice and victims' services agencies meet their obligations under the Charter. The Commissioner's compliance approach uses both encouragement and deterrence to motivate action and deliver improved outcomes for victims of crime.⁴⁵⁶

The Commissioner's compliance objective is to ensure victim survivors' rights are upheld. This approach aims to drive compliance and behavioural change in agencies by running education and information sessions, surveying agencies and developing guidance tools reflecting best practice with Charter compliance.

CLARIFYING THE COMMISSIONER'S COMPLIANCE AND MONITORING ROLE

The Charter does not currently set out the Commissioner's central role in monitoring justice and victims' services agencies' compliance with the Charter. Instead, the Commissioner's compliance function is established in the separate VOCC Act.⁴⁵⁷

This can be confusing for victim survivors who may be unaware that the Commissioner's powers exist in two Acts (VOCC Act and the Charter) and may be unaware that the VOCC Act exists.

Also, while the VOCC Act creates reporting requirements it does not substantially set out the Commissioner's monitoring role, including any role for establishing guidance for justice and victims' service agencies or a function to determine how agencies promote the Charter.

⁴⁵⁴ *Victims' Charter Act 2006* (Vic) s 28(1A).

⁴⁵⁵ Prescribed agencies are the justice and victims' services agencies prescribed under the Victims of Crime Commissioner Regulations 2020 (Vic) reg 4.

⁴⁵⁶ Victims of Crime Commissioner, *Regulatory Approach*, May 2024, 8 <[vocc-regulatory-approach-may-2024.pdf](#)>.

⁴⁵⁷ *Victims of Crime Commissioner Act 2015* (Vic) s 28.

The Review recommends that the VOCC Act and the Charter be amended to clearly state that the Commissioner is responsible for:

- providing guidance and information to agencies about implementing their obligations under the Charter
- monitoring compliance with the Charter including reporting annually on:
 - agency compliance with the Charter
 - complaints received about Charter non-compliance, and
 - the effectiveness of policies and plans of the Secretary, DJCS and agencies to promote the Charter.

In amending the VOCC Act to clearly set out the Commissioner's monitoring role, consideration should be given to creating a new Division, similar to Division 3A, which established the Commissioner's new complaints functions in 2018.

Recommendation 22

The *Victims' Charter Act 2006* (Vic) and the *Victims of Crime Commissioner Act 2015* (Vic) should be amended to clarify the Victims of Crime Commissioner's role to:

- a. provide guidance and information to justice and victims' services agencies about implementation of the *Victims' Charter Act 2006* (Vic), and
- b. monitor justice and victims' services agencies compliance of the *Victims' Charter Act 2006* (Vic) including reporting annually on:
 - justice and victims' services agencies compliance with the *Victims' Charter Act 2006* (Vic)
 - complaints received about justice and victims' services agencies non-compliance with the principles of the *Victims' Charter Act 2006* (Vic), and
 - the effectiveness of policies and plans of the Secretary, Department of Justice and Community Safety and justice and victims' service agencies to promote the *Victims' Charter Act 2006* (Vic).

SECRETARY'S ROLE TO MONITOR THE CHARTER SHOULD BE REMOVED FROM THE CHARTER

The Secretary, DJCS has the function of 'Monitoring operation of Act' under Part 3 of the Charter.⁴⁵⁸ This is set out at section 20 and requires the Secretary to:

- develop policies and plans to promote the Charter principles
- monitor, evaluate and review the operation of the Charter and its benefit for victims
- ensure that appropriate processes are established for complaints to be made by persons adversely affected by crime if the Charter principles are not upheld, and
- anything else the Secretary considers appropriate for the purposes of this Act.

Some stakeholders queried the Secretary's responsibility for monitoring, evaluating and reviewing the operation of the Charter: '[g]iven that VOCC has responsibility for reporting on Charter compliance, it is appropriate that it assume the monitoring, evaluation and review functions.'⁴⁵⁹

The Review recommends that the requirement for the Secretary to monitor, evaluate and review the operation of the Charter at section 20(b) be removed. This will provide clarity to victim survivors by clearly delineating the Commissioner's role to oversee compliance with the Charter and the Secretary's role to promote the Charter.

This recommendation also addresses the historical context and anomaly that the Charter became law in 2006, nine years before the Commissioner's role was created. It is appropriate that the role of monitoring, evaluating and reviewing the Charter moves away from the Secretary, DJCS, as a justice agency, and sits with the Commissioner.

⁴⁵⁸ *Victims' Charter Act 2006* (Vic) s 20.

⁴⁵⁹ Written submission Victims' Charter Review 2024/25 – SASVic.

Recommendation 23

The *Victims' Charter Act 2006* (Vic) should be amended to clarify the Victims of Crime Commissioner's monitoring role, by removing the requirement in section 20(b) of the *Victims' Charter Act 2006* (Vic) for the Secretary, Department of Justice and Community Safety to monitor, evaluate and review the operation of the *Victims' Charter Act 2006* (Vic).

GREATER COMPLIANCE POWERS ARE NEEDED TO MAKE THE CHARTER EFFECTIVE FOR VICTIM SURVIVORS

“ Our *Victims' Charter* is just another document of words on paper that don't actually achieve anything.⁴⁶⁰

“ The rights are very specific and not able to be followed up with any consequences so they are essentially optional to follow.⁴⁶¹

This Review finds that there is scope for the Commissioner to be given stronger powers in situations where there is evidence of serious and systemic non-compliance with the Charter. The Commissioner does not have access to a full suite of compliance powers to monitor Charter compliance. For example, there is no power for the Commissioner to compel action where there is non-compliance by an agency.

During the Review's consultation phase, the Commissioner heard that many victim survivors felt that non-compliance with the Charter was not being adequately addressed:

“ The *Victims' Charter* is toothless.⁴⁶²

“ I just spent my weekend combing through the act, recounting nearly 200 examples of perceived breaches of principles. I've spent most weekends and weeks coping with what's happening and trying to reconcile what I read as my rights with what I'm witnessing playing out in real time with agencies.⁴⁶³

⁴⁶⁰ Victims of Crime Commissioner online victim survivors survey November 2024 – March 2025.

⁴⁶¹ Victims of Crime Commissioner online victim survivors survey November 2024 – March 2025.

⁴⁶² Victims of Crime Commissioner online victim survivors survey November 2024 – March 2025.

⁴⁶³ Victims of Crime Commissioner online victim survivors survey November 2024 – March 2025.

The Commissioner also heard that agencies needed to be held more accountable for non-compliance with the Charter:

- “ Agencies should be required to provide an explanation when things go wrong as well as an option for fines to be placed on agencies.⁴⁶⁴
- “ Service providers need to be more accountable...We need continued accountability, support and engagement from victim service agencies.⁴⁶⁵
- “ There needs to be accountability and a penalty if agencies don't comply. If there is no recourse the Charter is compromised.⁴⁶⁶
- “ If you have a Victims' Charter it must be enforceable with agencies that are accountable for doing the wrong thing even if it's just an apology letter.⁴⁶⁷

The Systemic Inquiry also found that enforcement of the Charter was a concern for victim survivors. This was attributed to the Commissioner's insufficient powers to enforce compliance with the Charter principles.⁴⁶⁸

As SAS Vic observed in consultations for this Review, '[i]t is widely accepted that enforcement and accountability mechanisms are key to encouraging the cultural change intended by frameworks such as the Victims' Charter.'⁴⁶⁹ Victim survivors have also been clear that the 'Commissioner should have powers to ensure that the Victims' Charter is enforced'.⁴⁷⁰ Victim survivors want services to be regularly audited to ensure compliance with the Charter and where there is non-compliance, that there be a timeline outlined for remedying Charter non-compliance.⁴⁷¹ Victim survivors also want non-compliant agencies to be held accountable by:

- public reporting or censure, expressed by some victim survivors as 'naming and shaming'⁴⁷²
- loss of contracts⁴⁷³
- mandated education⁴⁷⁴
- fines⁴⁷⁵
- probation periods to apply,⁴⁷⁶ and
- compensation payments for victims.⁴⁷⁷

⁴⁶⁴ Confidential victim survivor interviews February – March 2025.

⁴⁶⁵ Consultation meeting Victims' Charter Review 2024/25 - Victim Representatives - Victims of Crime Consultative Committee.

⁴⁶⁶ Confidential victim survivor interviews February – March 2025.

⁴⁶⁷ Confidential victim survivor interviews February – March 2025.

⁴⁶⁸ Victims of Crime Commissioner, *Silenced and Sidelined: Systemic inquiry into victim participation in the justice system* (Report, November 2023) 315 <[silenced-and-sidelined_systemic-inquiry-into-victim-participation.pdf](#)>.

⁴⁶⁹ Written submission Victims' Charter Review 2024/25 – SASVic.

⁴⁷⁰ Confidential victim survivor interviews February – March 2025.

⁴⁷¹ Consultation meeting Victims' Charter Review 2024/25 - Victims of Crime Commissioner's Lived Experience Advisory Group; Consultation meeting Victims' Charter Review 2024/25 - Victim Representatives - Victims of Crime Consultative Committee.

⁴⁷² Consultation meeting Victims' Charter Review 2024/25 - Victim Survivors' Advisory Council; Confidential victim survivor interviews February – March 2025.

⁴⁷³ Consultation meeting Victims' Charter Review 2024/25 - Victims of Crime Commissioner's Lived Experience Advisory Group.

⁴⁷⁴ Confidential victim survivor interviews February – March 2025.

⁴⁷⁵ Victims of Crime Commissioner online victim survivors survey November 2024 – March 2025; Confidential victim survivor interviews February – March 2025.

⁴⁷⁶ Consultation meeting Victims' Charter Review 2024/25 - Victim Survivors' Advisory Council.

⁴⁷⁷ Victims of Crime Commissioner online victim survivors survey November 2024 – March 2025.

FIGURE 6. Victim survivor survey responses to Charter non-compliance

Victim survivors were asked, 'If the police, justice agencies or victims' services do not do what the Victims' Charter says they should, what should happen?'

17%

of victim survivors indicated that, where there is non-compliance, 'the victim should be consulted about further action to be taken'.

54%

of respondents indicating that all of the following actions, listed below, should be available when the Victims' Charter is not complied with:

- the agency should apologise to the victim
- the agency should receive a fine
- staff involved should undertake additional training and education
- the agency should implement a new policy or procedure, and
- the victim should be consulted about further action to be taken.

Victim survivors also suggested the Commissioner should have greater enforcement powers.⁴⁷⁸ These enforcement powers could be similar to the Aged Care Quality and Safety Commissioner and the Health Complaints Commissioner.⁴⁷⁹ The Commissioner should be able to make enforceable recommendations – e.g. that agencies should be audited, provide better training and employ more staff.⁴⁸⁰

The Commissioner overwhelmingly heard from agencies that the Commissioner should have enhanced compliance powers, including 'enforcement and accountability mechanisms to achieve improved Charter compliance and cultural change'.⁴⁸¹

“ Our view is that the Victims' Charter should be strengthened to incorporate a broader range of and stronger regulatory powers, as well as legal avenues for non-compliance.⁴⁸²

⁴⁷⁸ Consultation meeting Victims' Charter Review 2024/25 - Victim Survivors' Advisory Council; Written submission Victims' Charter Review 2024/25 – GenWest.

⁴⁷⁹ Consultation meeting Victims' Charter Review 2024/25 - Victim Survivors' Advisory Council.

⁴⁸⁰ Consultation meeting Victims' Charter Review 2024/25 - Victim Survivors' Advisory Council.

⁴⁸¹ Written submission Victims' Charter Review 2024/25 – SASVic.

⁴⁸² Written submission Victims' Charter Review 2024/25 – SASVic.

“The Victims of Crime Commissioner has an integral role to play in strengthening compliance with the Charter, but stronger enforcement and complaints mechanisms are needed to enable effective accountability and oversight.”⁴⁸³

The Commissioner's existing compliance activities range from providing agencies with support and education to naming agencies who fail to comply with Charter principles in its annual report.⁴⁸⁴ However, some prosecuting agencies did not support any extension to these monitoring powers, indicating that additional enforcement powers would be unsustainable, and the current powers are appropriate for Charter compliance.

GIVING THE COMMISSIONER A MORE EFFECTIVE COMPLIANCE ROLE TO BENEFIT VICTIM SURVIVORS

To address victim survivors' overwhelming feedback, the Review recommends that both the Charter and the VOCC Act be amended to provide the Commissioner with stronger compliance powers.

This would significantly strengthen the Charter's role in driving cultural change in victims' experience of the justice system. It will lead to lasting benefits for victim survivors.

In cases where the Review determines there are serious and/or repeated systemic non-compliance with the Charter occurring within an agency, the Commissioner's powers should be expanded to provide that:

- the Commissioner can require an agency to take an action specified by the Commissioner, to meet their Charter obligations, and
- where an action is not complied with, the Commissioner can issue a compliance notice to an agency and publish that notice, where it would not identify any individuals (staff or victim survivors).

These expanded powers would create a graduated approach to compliance. Issuing a compliance notice would be the next step in the compliance response if an agency fails to perform the action first requested by the Commissioner to remedy non-compliance with a Charter obligation. Both responses offer a low cost and transparent solution to increased Charter compliance.

The direction to take an action is akin to the Victorian Disability Services Commissioner's (DSC) powers. The *Disability Act 2006* (Vic) provides the DSC with powers to specify an action that the DSC has determined the service provider should take following an investigation.⁴⁸⁵ The DSC may decide that the relevant service provider should take action to improve the services investigated, having regard to the impact on the service provider and any person accessing the services of that service provider.⁴⁸⁶

⁴⁸³ Written submission Victims' Charter Review 2024/25 - Federation of Community Legal Centres.

⁴⁸⁴ *Victims of Crime Commissioner Act 2015* (Vic) s 28.

⁴⁸⁵ *Disability Act 2006* (Vic) s 128N.

⁴⁸⁶ *Disability Act 2006* (Vic) ss 128M(1), 128M(3).

The DSC also has powers to issue a notice in writing to a service provider specifying the action the DSC has decided the service provider should take to improve their service.⁴⁸⁷

Similar powers could be further expanded to allow the Commissioner to issue compliance notices. These notices would be issued following an investigation or a complaint from a victim survivor, where the completion of a compliance plan by an agency has not adequately addressed the identified Charter non-compliance. Issuing a compliance notice would be based on a range of criteria, including the severity of the issue/s or in cases where commitments have not been previously fulfilled by the agency.

Similarly, the Victorian Health Complaints Commissioner and Mental Health and Wellbeing Commissioners also have powers to issue public compliance notices.⁴⁸⁸ Where the Mental Health and Wellbeing Commissioners issue a compliance notice, the notice may specify the action to be taken by a mental health and wellbeing service and the time within which the action is to be taken. The service may also be required to provide the Commissioner with a report on specified action taken.⁴⁸⁹

The Commissioner should also be empowered to report publicly on compliance notices to alert victim survivors to the conduct of agencies who are not meeting their Charter obligations.

Recommendation 24

The *Victims of Crime Commissioner Act 2015* (Vic) should be amended to enable the Victims of Crime Commissioner to:

- a. specify an action justice and victims' services agencies should take to meet their Victims' Charter obligations where there is evidence that the agency is not meeting their obligations under the *Victims' Charter Act 2006* (Vic)
- b. where a justice and victims' services agency has been directed to take an action and has not satisfactorily complied with the direction, the Victims of Crime Commissioner may, after providing the agency with an opportunity to respond, can issue compliance notices for serious and systemic non-compliance with the *Victims' Charter Act 2006* (Vic), and
- c. require justice and victims' services to report back on actions taken to address compliance notices within a specified time period. These notices may be made public by the Victims of Crime Commissioner.

⁴⁸⁷ *Disability Act 2006* (Vic) s 128N.

⁴⁸⁸ *Health Complaints Act 2016* (Vic) s 35; *Mental Health and Wellbeing Act 2022* (Vic) s 502; Mental Health and Wellbeing Commission (Vic), *Our Approach to Complaint Handling and Compliance Monitoring* (Report, August 2024) <<https://www.mhwc.vic.gov.au/sites/default/files/2024-10/Our-approach-to-complaint-handling-and-compliance-monitoring.pdf>>; *Mental Health and Wellbeing Act 2022* (Vic) s 502(2).

⁴⁸⁹ *Mental Health and Wellbeing Act 2022* (Vic) s 502(2).

CHAPTER

9

Aboriginal victim survivors and the Charter



Aboriginal people are dramatically over-represented as victims of crime but are under-represented as recipients of victim support services.⁴⁹⁰ The Commissioner heard that, for many Aboriginal victim survivors, the Charter is currently ineffective at protecting and articulating their rights.⁴⁹¹

Facing denial and discrimination when seeking support, Aboriginal people have become less likely to report a crime, actively seek out victim support services or accept support when offered.⁴⁹² Aboriginal victim survivors of crime face challenges and barriers to reporting crime. Many do not want to report to police or pursue prosecutorial pathways. This can stem from fears they might not be believed, or be misidentified as the perpetrator, criminalised, discriminated against and mistreated in the process.⁴⁹³ Additionally, they may not want to criminalise a community or family member or risk having their report weaponised against them by a government agency as a reason to, for example, remove their children.⁴⁹⁴

During this Review, the Commissioner heard about the systemic barriers for Aboriginal people when reporting crime:

“There are barriers to disclosing and reporting crime, including mistrust of police, being misidentified as the perpetrator, and a lack of understanding about the police and justice process.”⁴⁹⁵

“Experience of negative behaviours and attitudes when interacting with police spread through word of mouth, making victims more reluctant to report.”⁴⁹⁶

This issue was also raised in the Systemic Inquiry, where the Aboriginal Justice Caucus (AJC) told the Commissioner that Aboriginal people experience a mistrust of the system, remain reluctant to report crime and that ‘racism will be the first barrier for Aboriginal people who report a crime.’⁴⁹⁷

⁴⁹⁰ Victorian Government, ‘Reforms We Will Deliver to Support Victims of Crime’ (Web Page, 15 June 2022) <<https://www.vic.gov.au/victim-support-update/reforms-we-will-deliver-support-victims-crime>>.

⁴⁹¹ Written submission Victims’ Charter Review 2024/25 - Victorian Aboriginal Legal Service.

⁴⁹² Written submission Victims’ Charter Review 2024/25 - Victorian Aboriginal Legal Service.

⁴⁹³ Written submission Victims’ Charter Review 2024/25 - Victorian Aboriginal Legal Service.

⁴⁹⁴ Written submission Victims’ Charter Review 2024/25 - Victorian Aboriginal Legal Service.

⁴⁹⁵ Regional Aboriginal Justice Advisory Committees, Aboriginal Victims of Crime Strategy Development consultations, provided by Department of Justice and Community Safety for use in this Review.

⁴⁹⁶ Regional Aboriginal Justice Advisory Committees, Aboriginal Victims of Crime Strategy Development consultations, provided by Department of Justice and Community Safety for use in this Review.

⁴⁹⁷ Victims of Crime Commissioner, *Silenced and Sideline: Systemic inquiry into victim participation in the justice system* (Report, November 2023) 189 <[silenced-and-sideline_systemic-inquiry-into-victim-participation.pdf](#)>.

These barriers and challenges are compounded by histories of colonisation, intergenerational trauma, loss of culture and land and ongoing experiences of racism and social dislocation.⁴⁹⁸

There is a growing understanding of the importance of cultural safety for Aboriginal victim survivors as they engage with justice and victims' service agencies. The Government is developing a strategy for Aboriginal victims of crime, informed by key principles of cultural safety and self-determination to better respond to the needs of Aboriginal victim survivors of crime. The Commissioner strongly supports the development of this Strategy. Reforms are still required to the Charter, to complement and strengthen the Strategy, and to include and benefit Aboriginal victim survivors.

For this Review, the Commissioner consulted with the following Aboriginal organisations to better understand the unique, diverse and complex needs of Aboriginal victim survivors of crime:

- Victorian Aboriginal Legal Service (VALS), and
- Women Families and Victims Collaborative Working Group (Working Group).⁴⁹⁹

Conscious of multiple consultation processes the Commissioner was also provided with VSSR's notes from their consultation with the Regional Aboriginal Justice Advisory Committee (RAJAC) for the Aboriginal Victims of Crime Strategy. These notes were provided with permission from RAJACs for use in this Review.

The Charter needs to operate to benefit Aboriginal victim survivors, particularly acknowledging the over-representation of Aboriginal victim survivors of crime. The recommendations, across this report, reflect feedback from consultations and submissions received from Aboriginal organisations. While the Review does not make recommendations specifically for Aboriginal victim survivors, a number of recommendations are made to directly improve the experiences of and benefit Aboriginal victim survivors of crime in response to the feedback heard.

In Chapter 2 the Commissioner heard there needs to be specific and targeted Charter promotion for Aboriginal communities in various formats in consultation with Aboriginal victim survivors. This could include developing resources for use in primary and secondary schools. Providing hard copy sources of information about victim support are helpful for promoting services to Aboriginal victim survivors of crime (See **Recommendation 1** – information about the Charter should be available in different formats which better recognise victim survivors' individual and diverse needs).

⁴⁹⁸ Written submission Victims' Charter Review 2024/25 - Victoria Legal Aid.

⁴⁹⁹ This Working Group oversees work relating to key *Burra Lotjpa Dungaludja* initiatives and emerging strategic projects arising from the Aboriginal Justice Forum.

The Commissioner heard at Chapter 3 that ‘language has changed a lot in 20 years – revisit language and ensure that the Charter speaks more to our mob.’⁵⁰⁰ The Objects and Purpose of the Charter need to recognise Aboriginal peoples’ right to self-determination and cultural safety (See [Recommendation 7](#) – Objects and Purpose of the Charter to be amended to recognise the central role of victim survivors, the trauma caused by victimisation and the diversity of victim experience and needs).

Chapter 6 outlines how Aboriginal victim survivors of crime have the right to feel safe when attending court and this includes safe entries and exits, waiting spaces and special access arrangements for giving evidence (See [Recommendation 14](#) – the Charter to be amended to include a clear victim principle to safety in courts).

In Chapter 7 the Commissioner heard that ‘Aboriginal people do not use the Charter complaints mechanism as it is unlikely to result in any meaningful outcome for them.’⁵⁰¹ The Charter needs to recognise that the requirement to first report a failure to comply with the Charter to a justice and victims’ services agency is a barrier for Aboriginal victim survivors when making complaints (See [Recommendation 16](#) – requirement for a victim survivor to first complain to an agency should be removed).

The report discusses at Chapter 7 that the Commissioner should be required to report annually on complaints to the AJC and to be shared with Aboriginal Community Controlled Organisations – [Recommendation 20](#). This reporting function will provide the AJC with a systemic view of complaints made by Aboriginal victim survivors and will assist with raising the profile of the Charter and measure its ‘utility and effectiveness.’⁵⁰² This acknowledges the feedback that the Charter is currently considered ‘ineffective at protecting and articulating the rights of Aboriginal victim survivors of crime.’⁵⁰³

⁵⁰⁰ Consultation meeting Victims’ Charter Review 2024/25 - Women, Families and Victims Collaborative Working Group.

⁵⁰¹ Written submission Victims’ Charter Review 2024/25 - Victorian Aboriginal Legal Service.

⁵⁰² Written submission Victims’ Charter Review 2024/25 - Victorian Aboriginal Legal Service.

⁵⁰³ Written submission Victims’ Charter Review 2024/25 - Victorian Aboriginal Legal Service.

Establishing an Aboriginal Social Justice Commissioner

In addition to the recommendations in this Review to benefit Aboriginal victim survivors, previous inquiries have proposed the establishment of an Aboriginal Social Justice Commissioner. The Systemic Inquiry *Silenced and Sidelined* recommended the appointment of an Aboriginal Social Justice Commissioner to address systemic barriers to participation for Aboriginal victim survivors.⁵⁰⁴ An Aboriginal Social Justice Commissioner role, if established by the Government, would also be an important referral point to receive information about complaints and feedback from Aboriginal victim survivors, where there are failures to comply with the Charter. Consideration of an Aboriginal Social Justice Commissioner is an action under the Aboriginal Justice Agreement and strongly supported by the AJC.⁵⁰⁵

A 2021 Parliamentary Inquiry also recommended that the Victorian Government appoint an Aboriginal Social Justice Commissioner to monitor the implementation of recommendations made by the Royal Commission into Aboriginal Deaths in Custody (1987–1991) and to ensure the criminal justice system responds appropriately to Aboriginal Victorians.⁵⁰⁶

In their submission to this Review, VALS reiterated the importance of establishing an Aboriginal Social Justice Commissioner:

“Under the Victims’ Charter, the Secretary of the Department of Justice and Community Safety is given the function of ‘monitoring operation of the Act’ under Part 3 of the Victims’ Charter. VALS’ position is that independent oversight is necessary to protect the needs and interests of Aboriginal victims of crime.

“VALS asks that the VOCC reiterates its recommendation in the *Silenced and Sidelined* report for the Victorian Government to establish an independent, statutory office of the Aboriginal Social Justice Commissioner, to provide oversight for Aboriginal justice in Victoria including the treatment of Aboriginal victims of crime. This office should be properly funded, with appropriate powers (including powers to give it “teeth” and conduct own motion inquiries), and report directly to the Parliament.⁵⁰⁷

⁵⁰⁴ Victims of Crime Commissioner, *Silenced and Sidelined: Systemic inquiry into victim participation in the justice system* (Report, November 2023) 28 (Recommendation 11) <[silenced-and-sidelined_systemic-inquiry-into-victim-participation.pdf](#)>.

⁵⁰⁵ Victorian Aboriginal Justice Agreement, Goal 4.1: Greater accountability for justice outcomes (Web page August 2024) <[Goal 4.1: Greater accountability for justice outcomes | Aboriginal Justice](#)>.

⁵⁰⁶ Legal and Social Issues Committee, *Inquiry into Victoria’s Criminal Justice System* (Parliament of Victoria, Legislative Council, Report No 10, March 2022) 605 (Recommendation 79) <[https://www.parliament.vic.gov.au/495dd9/contentassets/6961bceea1ac41dd812811ab0312170d/lclsic-59-10-vic-criminal-justice-system.pdf](#)>; Victims of Crime Commissioner, *Silenced and Sidelined: Systemic inquiry into victim participation in the justice system* (Report, November 2023) 28 (Recommendation 11) <[silenced-and-sidelined_systemic-inquiry-into-victim-participation.pdf](#)>.

⁵⁰⁷ Written submission Victims’ Charter Review 2024/25 - Victorian Aboriginal Legal Service.

An Aboriginal Social Justice Commissioner role, if established by the Government, is supported by many Aboriginal organisations⁵⁰⁸ and could enhance Aboriginal victim survivors' culturally safe access to Charter rights and complaints processes.

The Commissioner emphasises that the report's discussion about the effectiveness of the Charter for Aboriginal victim survivors is intended to faithfully reflect what they heard from Aboriginal people who engaged with the Review.

Consistent with principles of self-determination, the Commissioner suggests that the Attorney-General seek the views of the AJC about the best way to incorporate the Aboriginal community's assessment of the above recommendations into the Government's response to this Review.

⁵⁰⁸ Written submission Victims' Charter Review 2024/25 - Victorian Aboriginal Legal Service; Consultation meeting Victims' Charter Review 2024/25 - Women, Families and Victims Collaborative Working Group.

CHAPTER

10

Ensuring
the Charter
continues to
benefit victim
survivors



Maintaining the Charter's impact with a legislative review by 2035

The Commissioner's consultation for the Review demonstrates that examination of the Charter's operations and its benefit for victim survivors is important. And yet no further review mechanisms are built into the Charter.

The opportunity to consult broadly with victim survivors and other stakeholders made it clear that ongoing cultural change is only possible where laws and policies stay relevant.

The Charter cannot be a static document. It must keep pace with the contemporary needs of victim survivors if it is to remain relevant and continue to drive cultural change and better outcomes for victim survivors who engage with all justice agencies.

When the Charter was introduced into Parliament, the second reading speech made clear Parliament's intention for the Charter to continue to 'facilitate the *ongoing* cultural change within the criminal justice system'⁵⁰⁹ (emphasis added). Therefore, a continuous review mechanism would facilitate ongoing cultural changes within the criminal justice system.

Future reviews of the Charter should include a review of the Commissioner's complaints and compliance functions, given that they were first implemented in 2019 and still require time to fully mature.

It is important that any future review of the Charter be independent. This will ensure an impartial assessment of the role and functions of the Commissioner and the effectiveness of the recommendations in this Review.

The Review recommends that this independent review of the Charter and the VOCC Act occur no later than 10 years from the tabling of this Review.

Recommendation 25

The *Victims' Charter Act 2006* (Vic) should be amended to require an independent review of the *Victims' Charter Act 2006* (Vic) and the *Victims of Crime Commissioner Act 2015* (Vic), and the recommendations from this Review, no later than 10 years from the tabling of this Review to ensure it continues to drive cultural change as originally envisaged by Parliament. This independent review should include a review of the Victims of Crime Commissioner's complaints and compliance functions.

⁵⁰⁹ Victoria, *Parliamentary Debates*, Legislative Assembly, 14 June 2006, 2047 (Rob Hulls, Attorney-General).

Appendices

Appendix 1: Prescribed Agencies

The Victims of *Crime Commissioner Regulations 2020* (Vic), regulation 4 outlines the prescribed agencies the Commissioner can monitor compliance with the Charter.

At the time of writing, these include:

- Victoria Police
- The Office of Public Prosecutions
- Victoria Legal Aid
- Accredited Community Legal Centres
- The scheme decision maker of the Financial Assistance Scheme
- The Secretary, Department of Justice and Community Safety.⁵¹⁰

Also included are other entities or persons – who are prescribed to the extent that they perform functions relating to the provision of services to victims of crime

- A person or body that receives funding from a State Contract to provide:
 - specialist victims of crime services
 - specialist family violence services
 - services to victim survivors of sexual assault
- An authorised ‘Family Violence Hub’⁵¹¹ entity
- The Victorian WorkCover Authority

⁵¹⁰ To the extent that the Secretary manages or delivers services or programs for victim survivors of crime.

⁵¹¹ Within the meaning of the *Family Violence Protection Act 2008* (Vic) s 44SB.

Appendix 2: Key events and reforms for victim survivors

TABLE 5. Key events and reforms for victim survivors after the Charter commenced

Year	Event	Reform
2006	Victims' Charter receives royal assent	Victims' Charter introduced to: • recognise and respect victim survivors • help reduce the likelihood of secondary victimisation.
2014-2015	Victims of Crime Commissioner established	The first Victims of Crime Commissioner was appointed in October 2014.⁵¹² The legislative intent was to create an independent Commissioner whose role would focus on recognising victim survivors within the justice system, representing victim survivors' interests to the government, and promoting victim survivors' inclusion and participation within the justice system.
2016	VLRC report <i>The Role of Victims of Crime in the Criminal Trial Process</i> released	VLRC report finds that victim survivors still 'feel marginalised' despite the operation of the Victims' Charter.⁵¹³ VLRC makes 17 recommendations that relate substantially to the Victims' Charter.

⁵¹² Victorian Government, 'New Laws Enshrine Rights of Victims of Crime' (Media Release, 15 September 2015) <<https://www.premier.vic.gov.au/new-laws-enshrine-rights-victims-crime>>.

⁵¹³ Victorian Law Reform Commission, *The Role of Victims of Crime in the Criminal Trial Process* (Report No 34, August 2016) 44 <https://www.lawreform.vic.gov.au/wp-content/uploads/2021/07/VLRC_Victims-Of-Crime-Report-W.pdf>.

Year	Event	Reform
2018 - 2019	Victims' Charter and Victims of Crime VOCC Act amended	Following the VLRC report, changes are made to the Victims' Charter to enhance victim survivors' rights and recognise victim survivors as participants. Changes to the <i>Victims of Crime Commissioner Act 2015</i> (Vic) also empower the Commissioner to: • receive complaints from victim survivors who felt principles under the Victims' Charter had not been upheld • report on prescribed agencies' compliance with the Victims' Charter • conduct a review of the operation of the Victims' Charter and report to the Attorney-General by 7 September 2025.⁵¹⁴
2019-2020	Victims of Crime Commissioner commences reporting on agency compliance with the Victims' Charter	Commissioner seeks information for the first time from all agencies prescribed under the Victims of Crime Commissioner Regulations 2020 about the systems, policies and processes they have in place to ensure their compliance with the Victims' Charter.
2021	DJCS review <i>Improving victims' experience of summary proceedings</i>	DJCS review finds that issues continue to be experienced by victim survivors in navigating the justice system, suggesting poor compliance by agencies with the Victims' Charter. ⁵¹⁵
2021	VLRC releases <i>Improving the Justice System Response to Sexual Offences</i>	Finds 'many concerns' related to compliance with the Victims' Charter, including issues with referrals to support, consultation with victim survivors about case progression and information provision. Recommends specific rights for victim survivors of sexual offending in the Victims' Charter. ⁵¹⁶

⁵¹⁴ *Victims of Crime Commissioner Act 2015* (Vic) s 29A.

⁵¹⁵ Department of Justice and Community Safety (Victoria), *Improving Victims' Experience of Summary Offences* (Report, November 2021) 21.

⁵¹⁶ Victorian Law Reform Commission, *Improving the Justice System Response to Sexual Offences* (Report, September 2021) 83 <https://www.lawreform.vic.gov.au/wp-content/uploads/2022/04/VLRC_Improving_Justice_System_Response_to_Sex_Offences_Report_web.pdf>

Year	Event	Reform
2022	Victorian Parliamentary Inquiry: <i>Inquiry into Victoria's Criminal Justice System</i>	Inquiry finds that despite the intentions of the Victims' Charter, the inherent interests and rights of victim survivors of crime could be better upheld and recommends the Victorian Government investigate options to strengthen the practical application and use of the Victims' Charter. ⁵¹⁷
2022	Victims' Charter amended	Amendments to the Victims' Charter introduced by independent MPs in the Legislative Council are passed. These amendments relate to victim survivors' rights in relation to sentence indications, applications for matters to be heard in the summary jurisdiction and victim impact statements. ⁵¹⁸
2023	Commissioner report: <i>Silenced and Sidelined</i>	Commissioner Fiona McCormack examines the 2018 Victims' Charter amendment that recognised victim survivors as 'participants' which was a reform recommended by the VLRC in its 2016 report. The Report finds that many victims do not feel like participants and continue to feel excluded, lack voice and are given inadequate information to participate fully in the process.
2024	Victims' Charter Review commences	Commissioner commences work to examine the operation of the Victims' Charter and its benefits for victim survivors.
2025	Australian Law Reform Commission Report <i>Safe, Informed, Supported: Reforming Justice Responses to Sexual Violence</i>	Report finds under-engagement with the justice system is the most significant problem with the justice system's response to sexual violence. Report recommends addressing barriers to access and engagement with the justice system, improving system accountability and processes and expanding justice pathways and remedies available.

⁵¹⁷ Legal and Social Issues Committee, *Inquiry into Victoria's Criminal Justice System* (Parliament of Victoria, Legislative Council, 24 March 2022) xlii <<https://www.parliament.vic.gov.au/495dd9/contentassets/6961bccea1ac41dd812811ab0312170d/lclsic-59-10-vic-criminal-justice-system.pdf>>.

⁵¹⁸ *Justice Legislation Amendment (Criminal Procedure Disclosure and Other Matters) Act 2022* (Vic).

Appendix 3:
Proposed schedule of
Charter rights

The following table sets out proposed changes to the Charter principles and reframes them into a ‘statement of Charter rights’. These include:

- strengthening or amending existing principles to better reflect victim survivor needs and expectations
- incorporating existing rights or entitlements from other Victorian legislation that are not yet reflected in the Charter
- introducing new rights where existing principles have not kept pace with victim survivor expectations and needs.

The proposed schedule of Charter rights has been prepared based on the findings of this Review, the Systemic Inquiry and internal research.

The Commissioner’s approach to the proposed rights in the table below recognises that these rights are not exhaustive and victim survivors have a range of rights under other State laws.⁵¹⁹

Introducing a statement of Charter rights, instead of principles, into the schedule of the Charter will not create a legal right to any action for victim survivors experiencing non-compliance with their rights. The Charter will continue to operate in accordance with section 22 of the Charter, which specifically states that no legal rights are affected by the Charter.

TABLE 6. Proposed schedule of statement of Charter rights

EXISTING RIGHTS REQUIRING AMENDMENT

Proposed Charter rights	Rationale
Respectful treatment: The right in section 6(2) should be amended so that ‘particular’ needs are not specified.	Simplifies the right and provides guidance to agencies categories of ‘particular’ needs in section 6(2) could then be changed without the requirement for legislative amendment.
Referral for support: Amend section 7 to remove requirement to be provided with information and instead, require an agency to refer to the most relevant service.	To simplify the right and reduce repetition. Focus is instead on referral to support, including legal and financial assistance.

⁵¹⁹ This approach is taken in the *Victims of Crime Act 1994* (ACT) s 14A: The victim’s rights are not exhaustive. Victims have a range of rights under other territory laws.

Proposed Charter rights	Rationale
Respectful treatment: Section 7A(a) becomes part of a general right to be treated with courtesy, dignity and respect. Section 7A(b) to be removed and incorporated in the general right about being responsive to victim diversity and victims' varying needs at section 7A(a).	To simplify and reduce repetition. Details about treatment (section 7A) and communication with victims (section 7B) can be provided in regulatory guidance.
Section 7B to be removed and incorporated in general right about being responsive to victim diversity and victims' varying needs including communication needs and preferences at section 7A(a).	See above – Details about treatment and communication with victim survivors can be provided in regulatory guidance.
Information about investigation: Amend section 8(1) to require information about the progress of an investigation at reasonable intervals or when significant changes⁵²⁰ have occurred, but no less than every three months.	Simplifies this section and provides a specific timeframe for providing information, in accordance with victim and stakeholder feedback.⁵²¹
Information about progress of prosecution: Amend section 9 to provide that prosecuting agencies give victims information about progress of prosecutions, 'major decisions', date and time of hearing and the court process.	Simplifies the section, noting that 'major decision' will need to be defined.

⁵²⁰ If this proposed change is adopted, significant changes to be defined in legislation or set out in Regulatory guidance documents.

⁵²¹ Confidential victim survivor interviews February – March 2025; Consultation meeting Victims' Charter Review 2024/25 - Victim Survivors' Advisory Council; Consultation meeting Victims' Charter Review 2024/25 - Victim Representatives - Victims of Crime Consultative Committee.

Proposed Charter rights

Rationale

Consultation about prosecution decisions:

Amend sections 9A, B and C so they apply to all prosecuting agencies, but only in relation to crimes against the person.

This means that all prosecuting agencies are required to consult with victims in relation to major decisions.

This is based on [Recommendation 11](#) which is discussed further in Chapter 5 of the Report.

This was also a recommendation of the Systemic Inquiry (Recommendation 1).

Amend section 9B(1)(e) re: seeking views of victim prior to appealing an acquittal to make clear the very specific and limited circumstances in which the Director of Public Prosecutions may appeal an acquittal, and where the views of victims will be sought.

Acknowledges the rarity of appeals against an acquittal under section 327H of the *Criminal Procedure Act 2009* (Vic). This amendment will assist victims to understand the appeals process where there is an acquittal.

Amend section 9B(3)(b) in relation to seeking victims' views to:

- remove the provision 'if it is not practical to contact the victim given the speed or nature of the proceeding'
- add if a victim does not want to be contacted.

This acknowledges that some victims do not want to be contacted in relation to the decision or the matter in general.

Bail:

Section 10 is retained but strengthened to require prosecuting agencies to provide specific information and remove the proactive requirement that victims have to request information.

This recognises the right of victims to communicate about their safety concerns and takes away the requirement for them to proactively request information about bail.

Recommendation 45 of the Systemic Inquiry sought amendments to enhance victims' rights in relation to bail to ensure they are respected as participants in the bail process.

Proposed Charter rights	Rationale
Information about the court process: Section 11 is included in a new section of the Act regarding information being provided about the progress of the prosecution.	This simplifies the rights and provides for information to be grouped under common headings.
Contact between victim and accused in court: Expand section 12 of the Charter so that a victim has a right to safety in court. This includes safe entry, exit and waiting rooms in the court building.	This amendment incorporates feedback from victims and stakeholders. Recommendation 26 of the Systemic Inquiry recommended minimum standards for safety and accessibility in Victorian Courts.
Victim Impact Statements: Section 13 is retained but simplified to clearly articulate: - the right to make a Victim Impact Statement - the responsibility of prosecuting agencies in relation to Victim Impact Statements	This strengthens and simplifies the language of the current provision to make it clear what victims' rights are and the obligations of prosecuting agencies.
Victims' privacy and property Victims' privacy and storage and return of property held by the State. These two respective sections (14 and 15) are to be retained but combined.	Simplifies the current provisions and articulates the rights more clearly.
Compensation and financial assistance: Amend section 16 to simplify and combine with the proposed new section on the right to access support, legal and financial assistance.	This combines relevant information in the one section to make it clearer what victims' rights are.
Victims' register: Expand section 17 so that eligible victims are required to be provided with tailored information about their eligibility for the victims register and be referred by a prosecuting agency to the victims register at sentencing.	This change was recommended in the Systemic Inquiry (Recommendation 50).

EXISTING RIGHTS IN OTHER LEGISLATION TO BE ENSHRINED IN THE VICTIMS' CHARTER

Proposed Charter rights	Rationale
Enshrine the right to be notified of applications to introduce confidential communications, the right to be heard on those applications and to funded legal advice and representation for those applications.	This right is currently contained in Division 2A of the <i>Evidence (Miscellaneous Provisions) Act 1958</i> (Vic).
Enshrine the rights relating to an application to pre-record evidence. ⁵²²	This right is currently contained in the <i>Criminal Procedure Act 2009</i> (Vic).
Enshrine the rights relating to victim information, notification and the right to make a Victim Report under the <i>Crimes (Mental Impairment and Unfitness to be Tried) Act 1997</i> (Vic).	It is important for victims in these matters to have a clear understanding of their right to make a Victim Report and the difference between a Victim Report and a Victim Impact Statement. This was a recommendation of the Systemic Inquiry (Recommendation 49).
Enshrine the rights of victims to publish particulars about a sexual offence, request non-disclosure of an offence and the right to apply for a Victim Privacy Order in respect of a deceased person.	This is currently a legislated right in the <i>Judicial Proceedings Reports Act 1958</i> (Vic). It was a right that victims strongly advocated for prior to it being legislated.

⁵²² *Criminal Procedure Act 2009* (Vic) s 198.

NEW RIGHTS

Proposed Charter rights	Rationale
Information about rights: Include a specific provision requiring that victims must be given information about their rights under the Victims' Charter.	This was advocated for by victims, lived experience representatives and stakeholders. (See <u>Recommendation 3</u> of this Review – Statement of Rights).
Sentence Indications: Require victims to be informed about sentence indication applications and give victims the opportunity to provide victim impact information to the prosecution so that it can be provided to the court at a sentence indication hearing.	This was a recommendation of the Systemic Inquiry (Recommendations 36 and 37).
Diversion: Establish clear rights and entitlements for victims during diversion processes in the Children's and Magistrates' Courts.	This was a recommendation of the Systemic Inquiry (Recommendation 48).
Restorative justice: Require victims to be informed about restorative justice options and referred at an appropriate opportunity having regard to their support needs and the progress of any criminal justice proceedings.	This was a recommendation of the Systemic Inquiry (Recommendation 46).



GPO Box 4356
Melbourne VIC 3000



1800 010 017



enquiries@vocc.vic.gov.au



victimsofcrimecommissioner.vic.gov.au