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# Regulatory Approach

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## The Victims of Crime Commissioner

The Victims of Crime Commissioner (VOCC) has a number of responsibilities including:

- undertaking systemic advocacy to improve victims' experiences in the justice system
- representing the concerns of victims to government
- responding to complaints from victims of crime
- conducting systemic inquiries and reporting on compliance against the Victims' Charter.

A key component of the VOCC's role is to report on the compliance of justice agencies and victims' services with the *Victims' Charter Act 2006* (Victims' Charter).

The VOCC Regulatory Approach applies to the Victims of Crime Commissioner's regulatory responsibilities and provides a clear statement of why and how the VOCC will regulate and what can be expected from them.

The Victims' Charter recognises that victims of crime have an inherent interest in the justice system's response to a crime that has impacted them. It recognises that all people adversely affected by crime should be treated with respect by investigatory, prosecuting, and victims' services agencies. A key objective of the Victims' Charter is to reduce the likelihood that victims will experience secondary trauma through the justice process. The Victims' Charter also formally recognises the role of victims in the criminal justice process; namely that, while not a party in proceedings, victims should be acknowledged as participants in proceedings for criminal offences.

## The legislative framework

*Victims of Crime Commissioner Act 2015*

*Victims of Crime Commissioner Regulations 2020*

*Victims' Charter Act 2006*

The Victims of Crime Commissioner was established in 2014 and legislated in 2015 under the *Victims of Crime Commissioner Act 2015* (VOCC Act). The VOCC was established to provide a unique voice to advocate for victims of crime in their dealings with the criminal justice system and with government agencies.

In November 2019, following a Victorian Law Reform Commission (VLRC) inquiry that found that agencies were not treating victims as the Victims' Charter intended, the government amended the VOCC Act to empower the VOCC to:

- respond to complaints made by victims of crime about their treatment by justice agencies and victims' services
- report on the compliance of agencies and services with the Victims' Charter.

The reforms gave victims the right to make a complaint about an investigatory, prosecuting or victims' service agency if the victim believes that agency has failed to comply with the Victims' Charter. Victims are required to first complain to the agency if they are concerned about a possible breach of the Victims' Charter. If they remain dissatisfied with the agency's response to their concerns, they can request the VOCC reviews their complaint.

To ensure their complaints process meets the requirements of the Victims' Charter, agencies should maintain an accessible and transparent complaint handling system and offer reasonable remedies. Such remedies may include an apology, acknowledgement, or explanation about why an error occurred, and the steps taken to prevent it happening again.

The *Victims of Crime Commissioner Regulations 2020* (VOCC Regulations) define the agencies and services that are required by law to comply with the Victims' Charter. Each year, the VOCC is required to report to the Attorney-General on the compliance of these agencies with the Victims' Charter.

The Victims' Charter has been in operation since 2006 under separate legislation. Since this time, justice agencies and victims' services have been legally obligated to treat victims in accordance with the Charter's principles.

Agencies that are required to comply with the Victims' Charter include:

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

## Agencies the VOCC regulates

The VOCC Regulations set out which agencies are required to comply with the Victims' Charter. The Regulations prescribe investigatory, prosecuting and victims' service agencies.

### Agencies prescribed to comply with the Victims' Charter

#### Investigatory agencies

Victoria Police and WorkSafe are categorised as both investigatory and prosecution agencies.

#### Prosecution agencies

The Office of Public Prosecutions, Victoria Police and WorkSafe are all prosecuting agencies.

#### Victims' services agencies

Victims' services agencies required to comply with the Victims' Charter include:

- community legal services
- specialist victims of crime services (the Victims Assistance Program)
- family violence services
- victims' services and programs provided by the Department of Justice and Community Safety (such as the Victims' Helpline and Victims Register)
- The Orange Door
- Victoria Legal Aid
- Sexual assault services
- Family Safety Victoria.

## Key principles

The regulatory approach is guided by several key principles. The VOCC regulatory principles complement the Victims' Charter principles and provide a values framework for the VOCC's regulatory activities.

In applying both the Victims' Charter principles and the VOCC regulatory principles, the VOCC considers the experience of victims of crime in the justice system as well as the experience and actions of individual participants, providers and workers to proactively improve practice and amplify the voice of victims of crime.

### The Victims' Charter principles

The Victims' Charter principles will inform the regulatory approach by ensuring victims of crime are at the centre of all work delivered by the VOCC, and in conducting regulatory activities will:

- recognise the impact of crime on victims, including the impact on victims' families, witnesses and in some cases, the broader community
- recognise that all persons affected by crime, regardless of whether they report the offence, should be treated with respect and should be offered certain information to help with the recovery process
- recognise that a victim of crime has an inherent interest in the response by the criminal justice system to that crime
- acknowledge a victim's role as a participant, but not a party, in proceedings for criminal offences
- help reduce the likelihood of secondary victimisation by the criminal justice system.

## The VOCC regulatory principles

Embedding a principles-based culture in VOCC regulatory activities puts victims of crime at the centre of the work delivered by the VOCC.

Regulatory principles	
<b>1. Risk-based</b>	The VOCC approach is proactive in identifying, assessing and responding to risk and applying the appropriate response to the situation. The VOCC prioritises and targets resources in response to activities and behaviours that pose the greatest risk to victims of crime.
<b>2. Predictable</b>	The VOCC applies the regulatory approach in a consistent manner. The regulatory framework under which the regulatory program operates supports a culture of stability, predictability and 'no surprises'.
<b>3. Fair</b>	The VOCC's interactions and procedures are impartial, fair and reasonable. Processes are clear and applied consistently in comparable circumstances. People are fairly treated when they encounter the VOCC Office and any decisions or actions by the VOCC are objective, relevant and free of bias.
<b>4. Respect</b>	The VOCC treats each agency as they themselves would want to be treated. Respecting diversity is essential to how the VOCC conducts their activities. It involves accepting and valuing differences in individuals and recognising their unique backgrounds, experiences, and perspectives.
<b>5. Proportionate</b>	The VOCC response to non-compliance and the risks agencies pose to victims of crime takes account of the size, nature and impact of the problem and the risks being addressed. The use of powers is restrained and justified.

## VOCC regulatory approach

The VOCC regulatory approach uses both encouragement and deterrence to motivate action and deliver improved outcomes for victims of crime.

The VOCC applies a risk-based approach to prioritise and direct effort to where it can make the biggest difference.

The VOCC's regulatory responsibilities are determined by the legislation they administer. The VOCC is guided by the principles and objectives outlined in the Victims' Charter when making decisions under the VOCC Act.

Supported by the VOCC Office, the VOCC strives to be a consistent, responsive and trusted regulator that acts proportionately and works with prescribed agencies, communities and victims of crime towards shared outcomes.

The regulatory approach aims to be evidence-informed, risk-based, transparent and responsive. The VOCC is committed to reducing barriers to compliance and regulatory duplication and burden. In undertaking regulatory activities, the VOCC will use the full range of regulatory tools available to solve problems and reduce harm to victims of crime.

The tools the VOCC will use include the provision of information, advice and guidance, data capture and analytics, and proportionate compliance monitoring and reporting activities.

### Applying a risk-based approach

The VOCC will apply a risk-based monitoring and compliance approach to ensure resources target the risks of non-compliance with the Victims' Charter and practices that cause harm to victims. This will strengthen capacity to act where they identify that the system is at risk of failing victims of crime.

A risk-based approach will allow the VOCC to:

- make informed decisions in targeting those activities of highest risk
- monitor regulation to ensure it is contemporary and fit-for-purpose
- regulate along a continuum of activities and use the full suite of regulatory tools at their disposal, proportionate to the risks identified
- be proactive to solve problems rather than be reactive to non-compliance
- scan the environment to recognise and respond to new and emerging issues
- respond effectively when non-compliance with the Victims' Charter or risks to victims of crime are identified.

### Providing information and guidance

The VOCC will provide information and guidance to help prescribed agencies to understand and comply with their obligations under the Victims' Charter.

This support will be timely, accessible to different audiences and delivered through a variety of methods. The VOCC recognises the diversity of investigatory, prosecuting and victims' services agencies and draws upon the existing work and resources of relevant bodies.

The VOCC will ensure prescribed agencies can access guidance in a range of ways, such as through web-based content, online resources and tools, newsletters, guidelines for good practice, webinars and information sessions.

The VOCC will provide resources to help the public better understand the needs of victims of crime, and to improve the transparency and accountability of justice agencies and victims' services.

### Communicating reporting requirements

The VOCC will develop an annual communications strategy that includes information for prescribed agencies on the compliance reporting cycle for that year alongside accessible links to any relevant reports and more detailed guidance material.

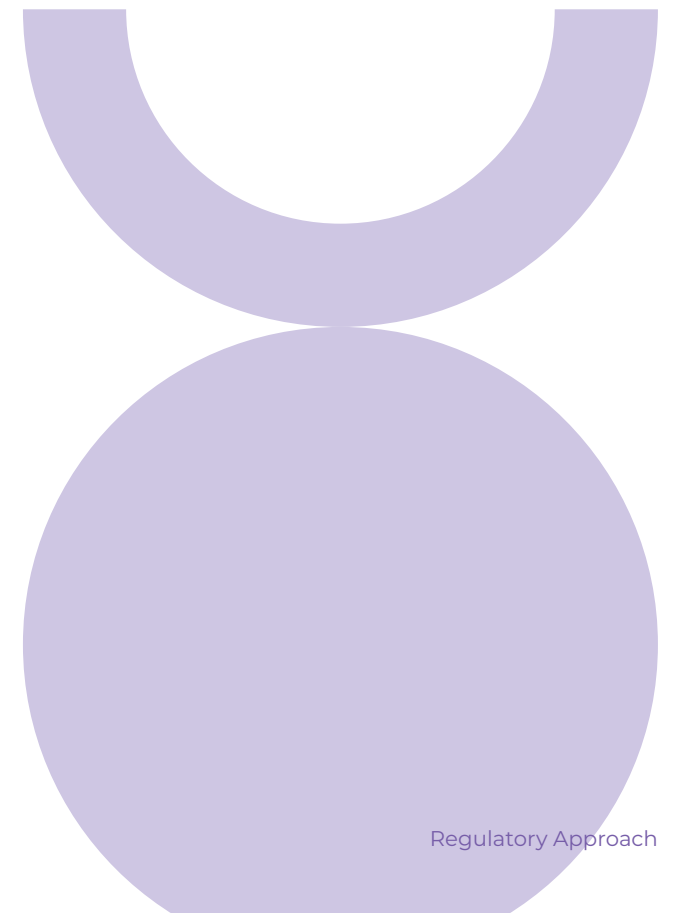
Information provided to prescribed agencies will allow time for them to plan and prepare for the annual request for information about compliance with the Victims' Charter. The information will outline the ways prescribed agencies and services can provide assurance to the VOCC that they are compliant with the Charter.

### Reducing regulatory burden

The VOCC's aim is to reduce the complexity of the reporting process so that prescribed agencies can commit a minimum of time and resources to the process. This will help reduce unnecessary regulatory burden while still providing the VOCC with the information they need to meet reporting requirements.

Most agencies are subject to several other reporting requirements for regulatory compliance and accreditation standards. The VOCC will consider if information from those processes could be used to provide assurance about compliance with the Victims' Charter, balancing the risk of regulatory burden with adequate assurance of compliance.

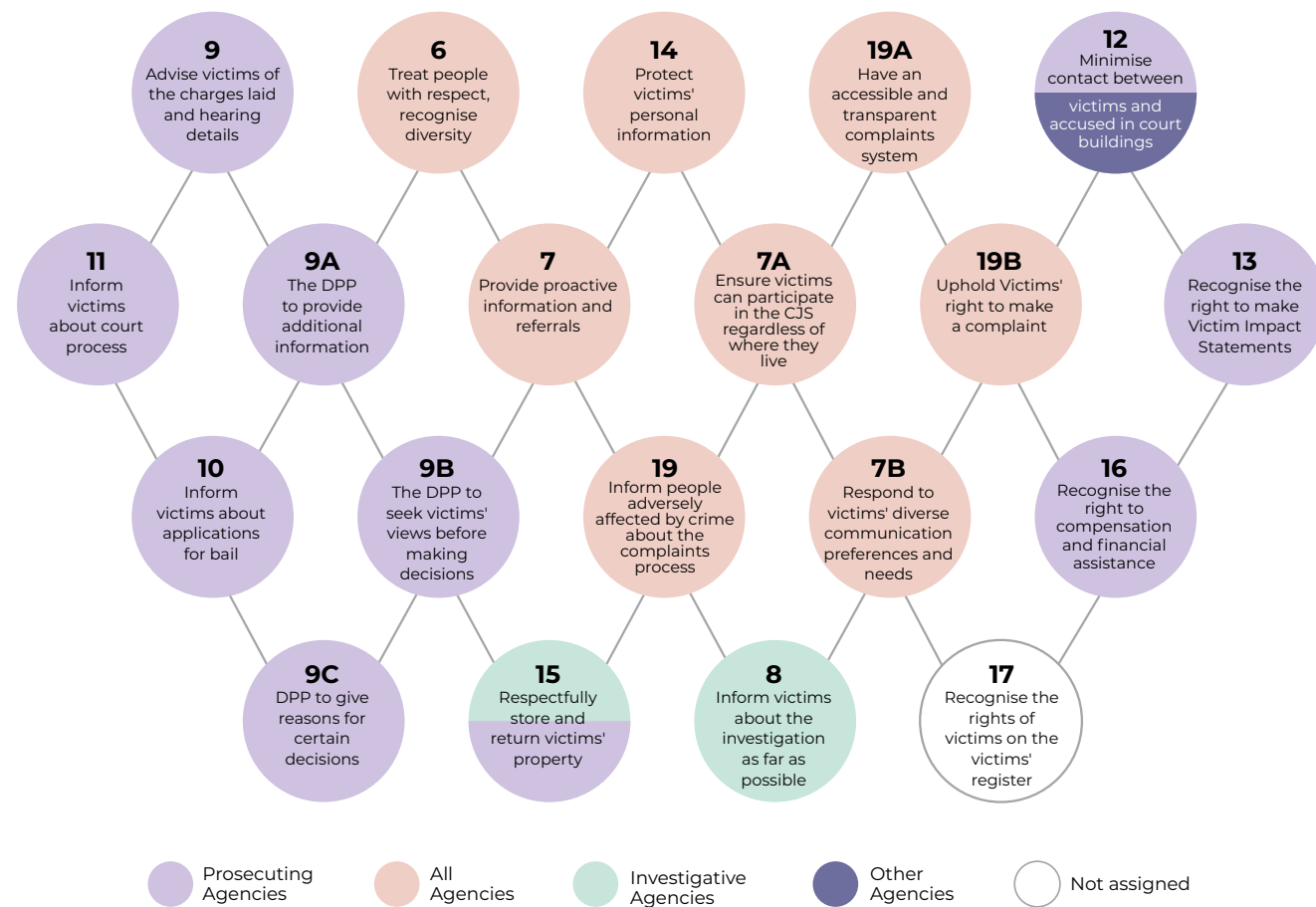
Where possible, it is the VOCC's intention to use information of this nature to avoid duplication of effort. This may include seeking access to information gathered through accreditation processes such as audits or collected by agencies for their own internal improvement processes.



### A tailored approach

The Victims' Charter outlines cultural and behavioural expectations for agencies and their staff through 17 principles. The way these principles apply to prescribed agencies depends on whether the agency is an investigatory, prosecuting or Victims' services agency.

The diagram below outlines how the principles apply to different categories of agencies.



The VOCC has adopted a tailored approach to reporting on prescribed agency compliance for multiple reasons:

- there are Victims' Charter principles that apply specifically to investigatory and prosecuting agencies that do not apply to victims' services agencies
- some agencies will present a higher risk of harm to victims of crime than other agencies
- there may be overlap across regulatory requirements for some agencies and these may be integrated into the VOCC's reporting approach.

Key to the VOCC's regulatory role in monitoring each category of agency is to ensure that they differentiate the principles that apply to individual agencies and those that apply to all agencies. A table that details the Victims' Charter principles and how they apply to agencies is at Appendix 1.

### A proportionate approach

The VOCC's approach to managing risk takes account of the type of activities undertaken by agencies and their complexity. For example, the VOCC understands that some smaller organisations may have fewer risks to consider than others operating on a larger scale.

Additionally, the VOCC will consider that smaller organisations may have limited resources to dedicate to implementing sophisticated governance and management systems when developing a tailored approach to regulation.

While there remains an expectation that the services provided by prescribed agencies to victims of crime align with the relevant Victims' Charter principles, the VOCC will take the size, experience and composition of agencies into account to ensure that regulatory actions are fair and proportionate.



## VOCC regulatory tools

Unlike many other regulators, the VOCC has limited enforcement powers under the VOCC Regulations. Rather than seeking to enforce compliance, the VOCC's purpose is to strengthen understanding of what victims need in their journey through the criminal justice process and to work towards cultural change in the system. The VOCC understands that most agencies want to do the right thing and places a strong emphasis on listening and providing assistance while maintaining the position that entities need to comply.

The VOCC approach to non-compliance is graduated, and in most cases, will encourage compliance through guidance and support, with more significant sanctions being used for prescribed agencies that are uncooperative or that have repeated or serious failings in compliance, or where risk of harm to victims of crime has been identified.

In addressing non-compliance, the VOCC will inform agencies if areas are identified for improvement.

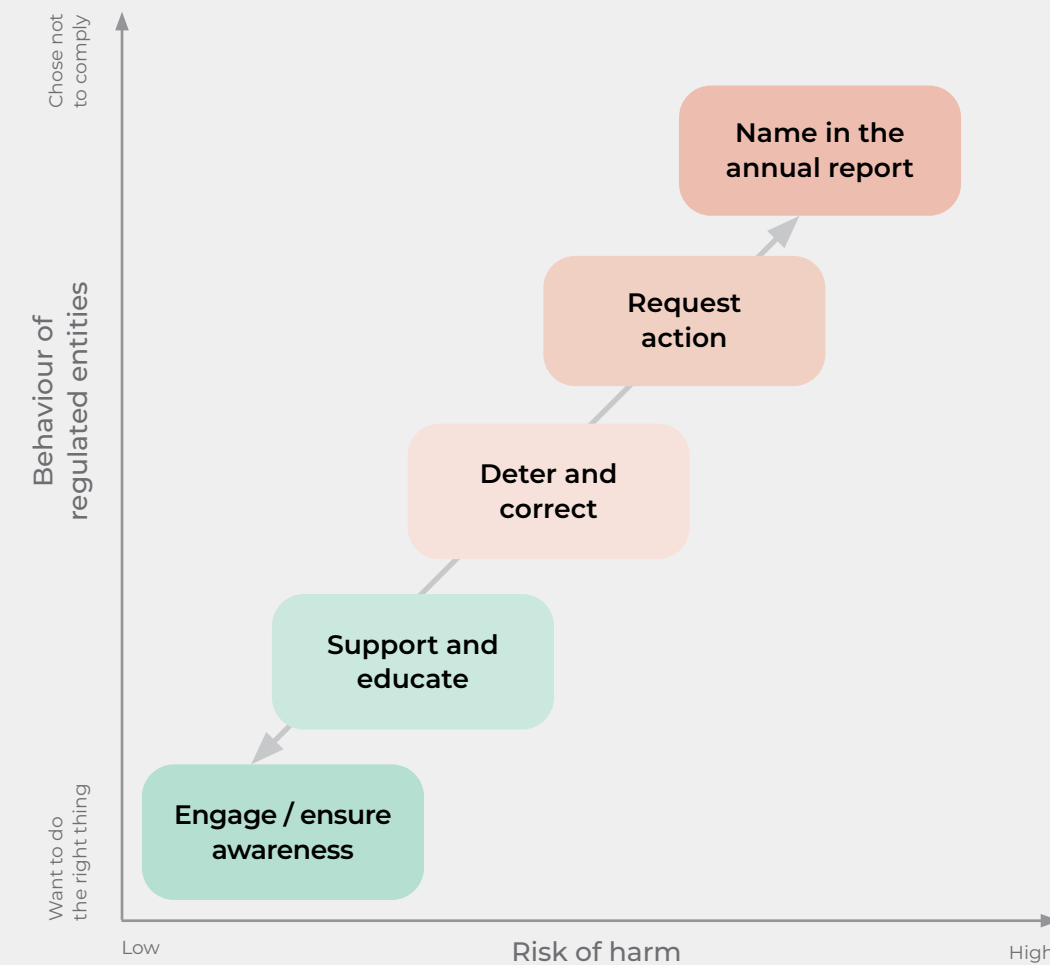
The VOCC may also identify and publicly report on areas where they think there is scope for improvement across types of prescribed agencies, or where there are patterns of non-compliance.

Complaints data will also be an important regulatory tool in identifying areas where agencies need to improve how they support victims of crime. Information and adverse findings from the VOCC's complaint review function will be integral to the analysis that will underpin the risk-based regulatory approach.

Taking a strengths-based approach to compliance, the VOCC may also identify and report on examples of good practice and areas where agencies are improving their processes.

The VOCC's intention is to reserve publicly naming specific agencies as non compliant to cases of extreme disregard for victims' rights and the requirements of the Charter.

### Hierarchy of Regulatory Activities



### Guide to steps in the hierarchy of regulatory activities

#### Engage/ensure awareness

This stage in supporting awareness will consist of the distribution of guidance material, hosting of information sessions and a communication strategy specifically aimed at informing agencies about the annual reporting requirements.

#### Support and educate

This second stage to support and educate consists of targeted guidance material, in some cases agency specific and individual stakeholder support and education regarding compliance with the Victims' Charter.

#### Deter and correct

This intervention stage will assist agencies who are not meeting compliance and require more focused information on meeting their obligations with the Victims' Charter. Intervention may be both informal or by formal correspondence from the Victims of Crime Commissioner dependent on pervasiveness of non-compliance and willingness to do the right thing.

#### Request action

A formal intervention stage that comprises of a formal request from the Victims of Crime Commissioner to correct non-compliance.

#### Name in the annual report

The final intervention stage when all other steps to correct non-compliance have been exhausted. The Victims of Crime Commissioner may decide to name the non-complying agency in the annual report tabled in Parliament.

## Complaints

The VOCC's complaint handling powers came into effect in November 2019 under the Act.

Victims of crime can complain to the VOCC if they feel that an agency has not complied with the Victims' Charter principles and the VOCC may investigate the complaint to establish if a breach of the Charter has occurred.

Following an investigation, the VOCC may recommend agencies act or make changes. The implementation of any recommendations will be monitored, and as with complaint data will be used to identify and monitor trends and emerging risks to inform the risk-based regulatory approach.

## Driving continuous improvement

As part of their commitment to best practice regulation, the VOCC has developed the Regulatory Approach to assist in benchmarking performance and supporting continuous improvement.

To drive best practice regulation, the VOCC is committed to enhancing regulatory capabilities in areas such as risk management, information gathering, data analysis, monitoring, evaluation, problem identification and problem solving with the goal of embedding these capabilities in the VOCC Office culture and to underpin regulatory practice now and into the future.

The VOCC will analyse evidence and systemic trends from regulatory activities alongside engagement with victims of crime to further inform the VOCC's systemic advocacy and understanding of the treatment of victims in the justice system.

As a best practice regulator, the VOCC will also support and work with prescribed agencies to build their capabilities by providing information and guidance and promoting ongoing engagement and cooperation.

## What the VOCC expects from agencies

This Regulatory Approach is a framework to encourage agencies to meet the expectations to improve their practices when responding to victims of crime and to ensure they align with the Victims' Charter.

The VOCC expects agencies to build ownership and understanding about good practice in implementing the Victims' Charter consistent with its objectives, and in doing so proactively identify and manage risks.

The VOCC will work with agencies and provide guidance to support understanding of regulatory obligations and compliance. In turn, the VOCC will expect agencies to take ownership to build knowledge, capability and capacity to ensure their activities align with the Victims' Charter principles.

The VOCC's expectation is that agencies are engaged with them when they seek regulatory information and make recommendations for improvement and that agencies are invested in improving the experience of all victims. The VOCC expects that agencies will respond positively when the VOCC raises issues that require an improvement in practice.

## Disputes about agency coverage

If an agency disputes that it is a victims' services agency as defined in the VOCC Regulations, the commissioner expects that most disputes will be able to be resolved through constructive discussion and engagement with agencies. If they cannot be resolved, this dispute can only be settled in the Supreme Court of Victoria.

If agencies are unhappy with the way any member of the VOCC Office has behaved, you may submit a complaint to: [feedback@vocc.vic.gov.au](mailto:feedback@vocc.vic.gov.au).

If agencies feel they have been treated unfairly by the VOCC, they may also submit a complaint to the Victorian Ombudsman.



## Appendix 1–How the Victims’ Charter applies to agencies

### Victims’ Charter principles and sections that apply to all agencies

#### Charter principles

##### 6 Treatment of persons adversely affected by crime

- (1) All persons adversely affected by crime are to be treated with courtesy, respect and dignity by investigatory agencies, prosecuting agencies and victims’ services agencies.
- (2) Investigatory agencies, prosecuting agencies and victims’ services agencies are to take into account, and be responsive to, the particular needs of persons adversely affected by crime, particularly needs relating to differences such as–
  - (a) race or indigenous background;
  - (b) sex or gender identity;
  - (c) cultural or linguistic diversity;
  - (d) sexual orientation;
  - (e) disability;
  - (f) religion;
  - (g) age.

##### 7 Information to be given to persons adversely affected by crime

Investigatory agencies, prosecuting agencies and victims’ services agencies–

- (a) are to provide clear, timely and consistent information about relevant support services, possible entitlements and legal assistance available to persons adversely affected by crime; and
- (b) if appropriate, are to refer persons adversely affected by crime to relevant support services and to entities that may provide access to entitlements and legal assistance.

##### 7A Special treatment of victims

Investigatory agencies, prosecuting agencies and victims’ services agencies are to–

- (a) respect the rights and entitlements of victims as participants in proceedings for criminal offences; and
- (b) so far as is reasonably practicable, take into account, and be responsive to, the particular needs of victims living in rural and regional locations.

#### Charter principles

##### 7B Communication with victims

Investigatory agencies, prosecuting agencies and victims’ services agencies are to take into account, and be responsive to, the following matters when communicating with a victim–

- (a) whether the victim wishes to be contacted;
- (b) the victim’s preferred method of contact (which may vary at different stages throughout the proceeding for a criminal offence and according to the topic of communication);
- (c) issues that affect the victim’s ability to understand the information being communicated, including, but not limited to–
  - (i) the victim’s understanding of English; and
  - (ii) whether the victim has a disability; and<sup>1</sup>
  - (iii) whether the victim is a child.

##### 14 Victims’ privacy

A victim’s personal information, including his or her<sup>2</sup> address and telephone number, is not to be disclosed by any person except in accordance with the *Privacy and Data Protection Act 2014*.

**Note** Section 10 of the *Privacy and Data Protection Act 2014* provides that the Act does not apply in respect of the collection, holding, management, use, disclosure or transfer of personal information by a court, tribunal, judge, magistrate or registry staff in relation to their judicial or quasi-judicial functions.

<sup>1</sup> The Commissioner has noted that the wording of principle 7(B)ii implies that all victims with disabilities may have issues understanding information. This issue is relevant to any future reviews of the Charter.

<sup>2</sup> The Commissioner has noted that the wording in principle 14 does not use gender neutral terms or pronouns. This issue is relevant to any further review of the Charter.

## Charter sections relating to complaints under the Victims' Charter

### 19 Information regarding complaints process for persons adversely affected by crime

If a person adversely affected by crime informs an investigatory agency, a prosecuting agency or a victims' services agency that he or she believes<sup>3</sup> that the agency has not upheld the Charter principles, the agency should inform the person about the processes available for making a complaint.

#### 19A Complaints system for victims

(1) Each investigatory agency, prosecuting agency and victims' services agency must institute and operate a system to receive and resolve complaints from victims in respect of the agency's compliance with the Charter principles, including complaints made under section 19B.

(2) A complaints system referred to in subsection (1) must–

- (a) be accessible and transparent; and
- (b) offer fair and reasonable remedies.

**Note** Fair and reasonable remedies may include an apology, an acknowledgment that an error occurred, or an explanation as to why an error occurred and the steps being taken by the agency to prevent the error reoccurring.

(3) An investigatory agency, a prosecuting agency or a victims' services agency that is dealing with a victim must inform the victim, as soon as is reasonably practicable after commencing to deal with that victim, of–

- (a) the agency's complaints system referred to in subsection (1); and
- (b) the victim's right to have a complaint reviewed under the *Victims of Crime Commissioner Act 2015* if dissatisfied with the agency's response to the complaint.

#### 19B Victim may complain to agency

A victim may complain to an investigatory agency, a prosecuting agency or a victims' services agency if the victim believes that the agency has not complied with the Charter principles.

**Note** A victim may seek a review of the agency's response to the complaint under the *Victims of Crime Commissioner Act 2015*.

## Victims' Charter principles that apply to investigatory agencies

### Charter principles

#### 8 Information to be given to victim about investigation

- (1) An investigatory agency is to inform a victim, at reasonable intervals, about the progress of an investigation into a criminal offence unless the disclosure may jeopardise any investigation of a criminal offence.
- (2) If the disclosure of information under subsection (1) may jeopardise any investigation, an investigatory agency is to inform the victim about the progress of the investigation of the criminal offence relevant to the victim, to the extent possible without jeopardising any investigation.
- (3) If the disclosure of information under subsection (1) would jeopardise an investigation, an investigatory agency is to inform the victim that no information can be provided at that stage due to the ongoing nature of the investigation.

#### 15 Storage and return of property held by the State

If property of a victim is in the possession of an investigatory agency or a prosecuting agency for the purpose of the investigation or prosecution of a criminal offence–

- (a) the agency is to handle and store the property in a lawful, respectful and secure manner; and
- (b) if possible and in consultation with the victim, the property is to be returned to the victim as soon as reasonably practicable.

<sup>3</sup> The Commissioner has noted that the wording in section 19 does not use gender neutral terms or pronouns. This issue is relevant to any further review of the Charter.

## Victims' Charter principles that apply to prosecuting agencies

### Charter principles

#### 9 Information regarding prosecution

The prosecuting agency is to give a victim, as soon as reasonably practicable, the following information–

- (a) the offences charged against the person accused of the criminal offence;
- (b) if no offence is charged against any person, the reason why no offence was charged;
- (c) if offences are charged, any decision–
  - (i) to substantially modify those charges; or
  - (ii) to discontinue the prosecution of those charges; or
  - (iii) to accept a plea of guilty to a lesser charge;
- (d) in the case of a prosecuting agency that is not the DPP, details about how to find out the date, time and place of the hearing of the charges against the accused person;
- (e) in the case of a prosecuting agency that is not the DPP, the outcome of the criminal proceeding against the accused person, including any sentence imposed;
- (f) if an appeal is instituted, the fact of the appeal, the grounds of the appeal and the result of the appeal.

#### 9A Additional information regarding prosecution to be provided by DPP

The DPP is to take all reasonable steps to advise a victim of–

- (a) the date, time and location of any contested committal hearing, trial, plea hearing, sentencing hearing and appeal hearing; and
- (b) 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.

### Charter principles

#### 9B Views of victim to be sought by DPP

- (1) The DPP is to seek the views of a victim before the DPP makes a decision to–
  - (a) substantially modify the charges; or
  - (b) discontinue the prosecution of the charges; or
  - (c) accept a plea of guilty to a lesser charge; or
  - (ca) oppose an application for a sentence indication; or
  - (d) appeal a sentence; or
  - (e) appeal an acquittal.
- (2) The DPP is to give a victim information about the matters taken into account by the DPP in making a decision to–
  - (a) agree to or oppose an application to cross-examine the victim at a committal hearing; or
  - (b) apply for, agree to or oppose an application for summary jurisdiction; or
  - (c) oppose an application for a sentence indication.
- (3) The DPP is not required to seek the views of a victim under subsection (1) or inform a victim under subsection (2) if–
  - (a) the victim cannot be contacted after all reasonable attempts; or
  - (b) it is not practical to contact the victim given the speed or nature of the proceeding.

#### 9C DPP to give reasons for certain decisions

- (1) The DPP is to give a victim, as soon as reasonably practicable, the reasons for any decision referred to in section 9(c).
- (2) The reasons referred to in subsection (1) may be given either orally or in writing.
- (3) Despite subsection (1), the DPP may decline to provide the reasons if the disclosure may jeopardise any investigation of a criminal offence or prejudice any other proceeding

#### 10 Applications for bail

- (1) A prosecuting agency, on request by a victim, is to ensure that the victim is informed of–
  - (a) the outcome of any application for bail by the person accused of the criminal offence; and
  - (b) if bail is granted, any conditions imposed on the accused person by the court that are intended to protect the victim or family members of the victim.

## Charter principles

### 11 Information about court process

- (1) A prosecuting agency is to ensure that a victim is informed about the court process and the victim's entitlement to attend any relevant court proceedings unless the court otherwise orders.
- (2) If a victim is to appear as a witness for the prosecution, the prosecuting agency is to ensure that—
  - (a) the victim is informed—
    - (i) about the process of the trial or hearing (as the case requires); and
    - (ii) about the victim's role as a witness for the prosecution; and
    - (iii) that after the victim has given evidence, the victim may remain in the courtroom unless the court otherwise orders; and
    - (iv) if relevant, about any special protections or alternative arrangements for giving evidence; and
  - (b) if relevant, the court is informed about the victim's preferences for the use of any special protections or alternative arrangements for giving evidence.

**Note** The *Criminal Procedure Act 2009* contains a number of special protections and alternative arrangements for giving evidence.

### 15 Storage and return of property held by the State

If property of a victim is in the possession of an investigatory agency or a prosecuting agency for the purpose of the investigation or prosecution of a criminal offence—

- (a) the agency is to handle and store the property in a lawful, respectful and secure manner; and
- (b) if possible and in consultation with the victim, the property is to be returned to the victim as soon as reasonably practicable.

## Victims' Charter principles that apply to other agencies

## Charter principles

### 12 Contact between victim and accused in court building to be minimised

So far as is reasonably practicable, a prosecuting agency and the courts should, during the course of a court proceeding and within a court building—

- (a) minimise a victim's exposure to unnecessary contact with the person accused of the criminal offence, defence witnesses and family members and supporters of the accused person; and
- (b) protect a victim from intimidation by the accused person, defence witnesses and family members and supporters of the accused person.

## Charter principles

### 13 Victim impact statements

- (1) A victim of a criminal offence may make a victim impact statement to the court sentencing the person found guilty of the offence, and unless the court orders otherwise, that statement may be considered by the court in determining the sentence of the offender.

**Note** See Division 1C of Part 3 of the *Sentencing Act 1991* in relation to victim impact statements.

(1A) The prosecuting agency must inform the victim, as soon as reasonably practicable after commencing to deal with that victim, of the victim's entitlement under subsection (1) to make a victim impact statement.

### 16 Compensation and financial assistance for victims

- (1) A victim may apply to a court for an order that the person convicted of or found guilty of the criminal offence that gave rise to the injury suffered by the victim pay compensation to the victim.

**Note** See Division 2 of Part 4 of the *Sentencing Act 1991* in relation to applications for compensation for victims of crime.

(2) In accordance with the *Victims of Crime Assistance Act 1996* a person eligible under that Act may apply to the State for compensation and financial assistance.

(3) A prosecuting agency that is dealing with a victim must inform the victim of the victim's possible entitlements under Division 1 and 2 of Part 4 of the *Sentencing Act 1991* and refer the victim to any legal assistance available to them.

### 17 Information about offender

- (1) A victim of a criminal act of violence within the meaning of section 30A of the *Corrections Act 1986* may apply to be included on the victims register established under that Act.

**Note** See sections 30A to 30I of the *Corrections Act 1986* in relation to the victims register.

(2) The Secretary may give to a person included on the victims register certain information concerning the offender such as the length of sentence, the likely date of release and the making of an extended supervision order, a supervision order or a detention order.

(3) If the Adult Parole Board is considering ordering the release on parole of an imprisoned offender who has committed a criminal act of violence—


- (a) a person included on the victims register may make a submission to the Board about the effect of the offender's potential release on the victim; and
- (b) the Board is to consider any submission received.


**Note** See sections 74A and 74B of the *Corrections Act 1986* in relation to victim submissions to the Adult Parole Board.

(4) A person included on the victims register may make a submission to the Post Sentence Authority for consideration in determining any instruction or direction it may give to an offender subject to an extended supervision order, a supervision order, detention order or an emergency detention order.

**Note** See sections 16A and 16B of the *Serious Sex Offenders Monitoring Act 2005* or sections 153 and 154 of the *Serious Offenders Act 2018* in relation to victim submissions.



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