

Discussion Paper

Victims of Crime Commissioner's Reporting on
Compliance with the Victims' Charter

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Reporting on compliance with the Victims' Charter

In November 2019, the Commissioner was given new legislative obligations to monitor and report on compliance with the Victims' Charter and to report on complaints made about prescribed agency non-compliance with the Charter.¹

The Victims' Charter has the following broad objectives:

- recognise the impact of crime on the victim, including the impact on their families, witnesses to the crime and in some cases, the broader community
- 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
- 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
- acknowledge the 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 Commissioner's regulatory framework and related reporting on compliance with the Victims' Charter aims to:

- show how the justice and victim support systems are and are not working for victims
- identify compliance challenges with the Victim's Charter and where the experience of victims could be improved
- support agencies to improve compliance with the Victims' Charter by identifying and sharing good practice

¹ Relevant legislation includes the *Victims of Crime Commissioner Act 2015* (VOCC Act), the *Victims' Charter Act 2006* (Victims' Charter) and the *Victims of Crime Commissioner Regulations 2020* (VOCC Regulations)

- enable victims to better understand their right to complain about their treatment and seek appropriate remedies
- prioritise victims who face systemic barriers to accessing justice and victim support services

The Commissioner is committed to a regulatory framework that prioritises Aboriginal and Torres Strait Islander peoples, and people living in Victoria of all ethnicities, genders, postcodes, abilities, sexual orientations, ages, religions and residential status, who have been adversely affected by crime.

Consultation on reporting requirements

To report on compliance, the Commissioner will need to collect information from agencies² about their processes and policies relating to their Victims' Charter obligations. For this reporting process to be as efficient and effective as possible, the Commissioner is seeking discussion and input from agencies.

In late 2020 and early 2021, the Commissioner arranged interviews with agencies to understand the processes they already have in place and the data already being collected. The Commissioner has also collected information on agencies' questions and concerns about how the reporting process will work in practice.

The next stage of the engagement process will involve more specific discussions, workshops and the provision of various documents for comment and review. Agencies will be provided several opportunities to provide their views and feedback.

A draft Final Report on the Commissioner's reporting framework will be circulated and used to inform more detailed discussions with agencies about their specific reporting obligations.

A staged approach to reporting

The Commissioner is taking a staged approach to the new reporting requirements. This will ensure agencies have an opportunity to provide input into the reporting framework. It will also enable the Commissioner to assess whether the regulatory framework can achieve the balance of minimal reporting burden for agencies balanced with assurance of agency compliance with the Charter. It will also allow time for agencies to increase their understanding of the new reporting obligations.

The Commissioner will not require full reporting until 2022.

² Use of 'agency' in this paper means 'prescribed agency'

Table 1: Annual reporting approaches

Year	Reporting approach
2019-20	To strengthen the Commissioner's understanding of agency awareness of the Victims' Charter and the Commissioner's role, in 2020 information was requested through a questionnaire to agencies including whether they had or were developing policies to support compliance.
2020-21	<p>Reporting will again be through a questionnaire that links to the information gathering and engagement process.</p> <p>The Commissioner is aware that more work with agencies is needed to develop a reporting process with minimal burden for agencies while meeting the obligation to ensure compliance with the Victims' Charter.</p>
2021-22	<p>The Commissioner intends to establish a tailored reporting framework that reports on the systems and processes agencies have in place to support compliance with the Victims' Charter, including complaints handling.</p> <p>To do this, staff in the Office of the Commissioner will:</p> <ul style="list-style-type: none">• identify which agencies fit into the different categories of agencies in the VOCC Regulations• in consultation with agencies and their representative associations, identify existing reporting and assurance systems that could be used to provide information to the Commissioner relevant to compliance with the Victims' Charter• develop a draft information request for 2022 based on that engagement and seek feedback from agencies• issue a final request for information in 2022 to be used as the basis for reporting compliance in the 2022 annual report.

A flexible approach to reporting

The Commissioner is aware that reporting for agencies that provide services to victims of crime is already complex and time consuming. Many agencies already provide multiple reports to other regulators and/or government departments, including meeting compliance obligations relating to accreditation and auditing requirements.

There are also complexities around the Victims' Charter obligations. Some agencies offer multiple services, some of which are covered by the Victims' Charter and others that are not covered.

In view of these factors, the Commissioner considers it important that the reporting framework is developed carefully, while reducing the complexity of reporting as much as possible without jeopardising the goals of assessing and reporting on compliance with the Victims' Charter.

The Commissioner intends to approach these problems in two ways:

- streamline the reporting process as much as possible and tailor it to the circumstances of different types of agencies
- provide information and guidance around the obligations set out in the Victims' Charter to ensure that reporting responsibilities are clear and well-communicated.

Reducing reporting complexity

The Commissioner plans to reduce the complexity of the reporting so that agencies can commit a minimum amount of time and resources while still providing the Commissioner with information she needs to meet her reporting requirements.

As outlined, to achieve this the Commissioner is engaging with agencies to identify relevant compliance reporting requirements that agencies are already required to meet for other regulators and/or government departments. The Commissioner will consider if information from those processes could be used to provide assurance about compliance with the Victims' Charter. Where possible, the Commissioner will avoid duplication. This may include information gathered through accreditation processes such as audits or collected by agencies for their own internal improvement processes.

Where information is not already collected, the Commissioner's consultation with agencies aims to determine how information can be collected with minimal

burden and what information will accurately demonstrate agency compliance with the Victims' Charter.

The Commissioner acknowledges that what needs to be reported under the Victims' Charter will vary depending on agency type (investigatory, prosecuting and victims' services). It will not be possible to create a single reporting template for all agencies to use. The Commissioner intends to develop a flexible framework that allows different categories of agencies to report according to their own circumstances.

Before commencing reporting in 2022 on agency compliance with the Victims' Charter, the Commissioner will consult with agencies to develop the most appropriate, tailored reporting obligations.

The reporting framework will be transparently planned and communicated, particularly given the complex issues around reporting and coverage.

Information and guidance

To provide clarity for agencies, the Commissioner will also develop guidance tools for the reporting requirements, as outlined in the table below.

Table 2: Guidance to be provided by the Commissioner

Guidance	Description
Activities that fall within the reporting requirements	<ul style="list-style-type: none"> Many agencies offer diverse services and not all services will be a victims' service under the Victims' Charter. Some services may have questions about being covered by the Victims' Charter. The Commissioner will discuss the details of these services and activities with agencies to provide accurate guidance. <p><i>Attachment 1</i> outlines coverage issues and seeks agency input on the proposed approach to resolve these issues.</p>
Information the Commissioner will collect	<ul style="list-style-type: none"> Some agencies have expressed concern about what information they will be required to collect and submit. <p><i>Attachment 2</i> outlines the types of information that could be relevant to reporting compliance and seeks comment on this information.</p>

- Regular updates
- Bi-monthly updates and emails will be sent over the next 18 months to keep agencies informed on the process and provide opportunities to offer feedback.
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Non-compliance with the Victims' Charter

To support reporting on compliance, the Commissioner is also developing an approach for addressing non-compliance with the Victims' Charter. This may include the Commissioner informing agencies if areas are identified for improvement.

The Commissioner intends to identify and report on examples of good practice and areas where agencies are improving their processes. The Commissioner may also identify and report on areas where she thinks there is scope for improvement across particular types of agencies, or where there are patterns of non-compliance.

At this stage the Commissioner's intention is to reserve naming particular agencies as non-compliant for cases of extreme disregard for victims' rights and the requirements of the Victims' Charter.

Questions for discussion

1. Do you have any comments on the aims of reporting and the staged approach (in consultation with agencies) over the next 18 months?
2. Do you have comments on the proposal to tailor reporting for different types of agencies and the intention to use existing reporting obligations where possible? Would such an approach provide meaningful compliance information while reducing reporting complexity?
3. Do you have comments on how the Commissioner should report non-compliance if issues are identified?

Attachment 1—Victims’ Charter coverage

Which agencies are prescribed?

The *Victims of Crime Commissioner Regulations 2020* (the Regulations) sets out which agencies are prescribed and therefore the organisations the Commissioner is required to report on compliance with the Victims’ Charter.

Under the Regulations, Victoria Police and the Office of Public Prosecutions are agencies with no limits on the activities that are covered.

The following organisations are prescribed agencies to the extent they provide services to victims of crime:

- Victoria Legal Aid
- Community Legal Service
- Authorised Hub entity (which includes Family Safety Victoria)
- Victorian WorkCover Authority (WorkSafe)

The following types of organisations are agencies if they receive funding under a contract with the Victorian Government to provide services to victims of crime:

- Specialist victims’ services (such as those provided through the Victims Assistance Program)
- Specialist family violence services
- Services to victim survivors of sexual assault
- The Department of Justice and Community Safety is an agency to the extent that the Secretary manages or delivers services to victims of crime.

What are services to victims of crime?

Consultations to date have identified uncertainty about the definition of ‘functions are related to the provision of services to victims of crime’.

The range of services provided by agencies can be classified into three broad categories, outlined in the following table.

Table 3: Categories of services to victims of crime

Categories of victim services	Functions and compliance coverage
Victim specific service (in scope for reporting)	Services provided specifically to meet the needs of victims of crime. These services are directly connected to the recipients' status or experience as a victim of crime or people adversely affected by crime. For example, refuge and support services for women and children that are victims/survivors of family violence.
General services (out of scope for reporting)	Services provided to a broad range of people, some of whom happen to be victims of crime. The purpose of these services is to meet client needs that are not directly related to their status or experience as a victim of crime. For example, general drug and alcohol services.
Mixed services (in scope for reporting)	Services provided to a range of clients, some of whom are victims of crime. Clients access the service for reasons that are directly connected to their status or experience as a victim of crime. For example, a general legal advice service where some people seek advice because of their status or experience as a victim of crime.

The Commissioner will not be seeking information from general services. While the benefits of treating people with courtesy, respect and dignity apply across all services and should be encouraged, people who are victims may access general services for a range of reasons that do not relate to being a victim of a crime. People in these circumstances may not want to be identified as a victim and some services may be less effective if people are identified as victims without their agreement.

In the case of mixed services, the Commissioner recognises the challenge of isolating those clients who are victims. In the coming months the Commissioner will work through these issues with relevant agencies to address how to most effectively report compliance.

The Regulations note that reporting covers functions relating to the provision of services to victims of crime. This means:

- activities of an agency that supports service provision, as well as direct service delivery, are covered by the reporting obligations.
- this includes, for example, the administration activities of a service hub.

What to do if you are not sure which services are covered?

The Commissioner expects agencies to be proactive in considering how the Victims' Charter applies to their organisation and the provision of victims' services. The Commissioner's Annual Reports will highlight agencies that have not provided information on services to victims of crime.

The Commissioner is, however, willing to work with agencies if they have questions about how the Victims' Charter applies to their organisation or the activities it undertakes.

You should contact staff in the Commissioner's office as soon as possible if you are unsure whether:

- your organisation is a prescribed agency
- the activities your organisation undertakes are considered services to victims of crime.

It is anticipated that many issues can be resolved through informal discussion. The Commissioner and the Commissioner's office are happy to have these discussions.

How will we resolve coverage issues?

If coverage issues are complex or there are disagreements about the extent of coverage, you may be asked to put your view and reasons in writing for the Commissioner's consideration. The Commissioner will then reach a view on coverage and provide you with a written explanation of the reasons for that view. Again, the Commissioner expects that most issues will be able to be resolved through constructive discussion and engagement with agencies.

For example, if the Commissioner has identified an agency that she believes is a prescribed agency but that agency has not provided information on its compliance with the Victims' Charter because it does not consider it is a prescribed agency, staff from the Commissioner's office will contact the agency to discuss its concerns. If those concerns cannot be resolved through informal discussion, the reporting process outlined below will be followed.

However, if the Commissioner has a view that an agency is a prescribed agency and it has not provided information on its compliance with the Victims' Charter, she will report this in her Annual Report. If the agency has disputed that it is a prescribed agency the Commissioner will also note in the Annual Report that her view is contested

Ultimately, a Court may be the final decision maker on whether your agency is a prescribed agency.

Questions for discussion

4. Do you have any comments on the categories of victim services covered by the reporting obligations and the proposed process for resolving coverage issues?
5. Are there other coverage issues where guidance is needed?

Attachment 2—Reporting information

To report compliance, the Commissioner will need to collect information from agencies. This information will help the Commissioner to:

- support agencies to improve compliance with the Victims' Charter by identifying and sharing good practice
- identify compliance challenges with the Victim's Charter and where the experience of victims could be improved
- highlight areas where there are significant compliance problems.

The specific information requested will be developed over time and tailored to different types of agencies. Generally, the type of information that will be of interest is set out below.

This attachment aims to inform discussion on what types of information might be relevant and available.

Why do we report on compliance of the Victims' Charter?

The Victims' Charter includes obligations and principles that govern how agencies should respond to victims who have been adversely affected by crime. It requires agencies to:

- have regard for the Victims' Charter principles
- have a complaints process that enables a victim to lodge a complaint if they are concerned about an agencies' compliance with the Victims' Charter principles
- provide information on how a victim can make a complaint.

The list of Victims' Charter principles is extensive and detailed, and different principles apply differently to different types of agencies (some specific to individual agency types and others overlapping across two or all three types of agencies). Specifically, there are 17 principles, of which:

- all agencies have obligations to comply with five principles
- investigatory agencies have an additional two principles
- prosecuting agencies have an additional nine principles

- two principles are actions victims may choose to pursue.

Broadly, the Victims' Charter principles sets cultural and behavioural standards for agencies and their staff. The Victims' Charter also sets obligations for sharing information with victims and how some processes that involve victims will be managed. In summary, all agencies are required to:

- treat victims with courtesy, respect and dignity
- provide information about services, entitlements and assistance
- communicate with and respond to victims in a way that recognises their preferences and needs
- protect victims' personal information.

What information will the Commissioner collect?

Because many of the Victims' Charter principles are about behaviour, culture, systems and processes, the Commissioner's view is that reporting needs to focus on whether agencies have good systems and organisational accountabilities in place to manage their engagement with victims. This is consistent with the approach taken in other areas such as protecting children (see Box 1).

Box 1: Royal Commission into Institutional Response to Child Sexual Abuse

The Royal Commission into Institutional Responses to Child Sexual Abuse highlighted that policies and procedures are necessary but not sufficient to guarantee outcomes on the ground. Standard 10 in the Commission's recommended Child Safe Standards not only requires that policies and procedures be in place, but also that the organisation supports their implementation. The Royal Commission also highlighted the importance of culture and practices within institutions.

Standard 10: Policies and procedures document how the institution is child safe

- a. Policies and procedures address all Child Safe Standards.*
- b. Policies and procedures are accessible and easy to understand.*
- c. Best practice models and stakeholder consultation inform the development of policies and procedures.*
- d. Leaders champion and model compliance with policies and procedures.*
- e. Staff understand and implement the policies and procedures.*

Source: Royal Commission into Institutional Responses to Child Sexual Abuse, *Final Report Volume 6, Making Institutions Child Safe*, 2017, p.27

The Commissioner aims to collect information that fits into the following categories:

- policies and procedures relevant to the principles in the Victims' Charter and to complaints handling, particularly any processes that provide quality assurance
- information, training and other initiatives used to inform and support staff members adherence to the Victims' Charter
- management accountability for leadership and governance of the systems that support implementation of the Victims' Charter and complaints handling
- mechanisms agencies use to gauge whether, in practice, victims are being treated consistent with the Victims' Charter
- operation and outcomes of complaints processes.

While some data points on complaints and staff training may be important, the amount of quantitative information the Commissioner intends to collect is limited.

Using other relevant compliance information

The Commissioner recognises that in agencies with a broader client base it may not be practical or desirable to have policies that relate solely to victims. The Victims' Charter principles may be implemented through other policies or compliance requirements that apply to all clients.

The Commissioner's interest is in how these policies and requirements address the principles in the Victims' Charter and complaints handling, specifically how they apply to victims. Some agencies will not necessarily be required to prepare separate policies specifically for victims. The Commissioner will, however, need to be satisfied that the policies are delivering outcomes that are consistent with the Victims' Charter and respond to victims' needs.

The following table illustrates the different types of information the Commissioner may collect. Importantly, not all information will be available or relevant to all agencies. The list of information types in the table is non-exhaustive and provides a basis for discussion.

As previously mentioned, the Victims' Charter also includes obligations that only relate to specific agencies, such as Victoria Police or the Director of Public Prosecutions. The table below does not cover the compliance information that specifically applies to those agencies.

Table 4: Potential types of compliance information

Information	Description
Policies and procedures	<p>Policies and procedures that relate to:</p> <ul style="list-style-type: none"> • engagement with and support of victims (or clients more generally) • how an agency tailors its approach and communicates with victims (or clients more generally) from diverse backgrounds and experiences or who live in rural or regional areas • information that is provided to victims about available support services, entitlements and assistance • privacy and handling of personal information • data on the types and number of victims supported by the agency (if known)
Training and staff support	<ul style="list-style-type: none"> • documents available to staff to support implementation of the above policies and procedures • induction and ongoing training for staff on the above policies and procedures • data on the take-up of that training (if known)
Management and leadership	<p>Information on whether:</p> <ul style="list-style-type: none"> • policies and procedures have been endorsed by senior management • specific staff are responsible for supporting implementation of the Victims' Charter principles and complaints handling, and if so, their role in the organisation • management has taken action to highlight the importance of the treatment of victims consistent with the Victims' Charter

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- compliance with the Victims' Charter has been formally considered by the agency's senior management committee or Board

Feedback and improvement systems

Information on:

- what actions the agency has taken to improve compliance with the Victims' Charter or address any identified gaps
- what systems the agency has in place to test client satisfaction, including whether their experience is consistent with the Victims' Charter

Complaints handling systems

Information on:

- policies and procedures on complaints handling
- how many complaints are received that related to compliance with the Victims' Charter
- what data is available on the time taken and resolution of complaints relevant to the Victims' Charter
- how an agency uses information from complaints to improve its practices

Questions for discussion

6. Do you have any comments on focussing reporting on the policies and governance systems that agencies have in place to support the application of the Victims' Charter?
7. What information do agencies currently hold on relevant training and complaints handling?
8. What systems do agencies currently have in place to gauge the experience and satisfaction of their clients?



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