

Improving victims' experience of summary proceedings

Final Report



Justice
and Community
Safety

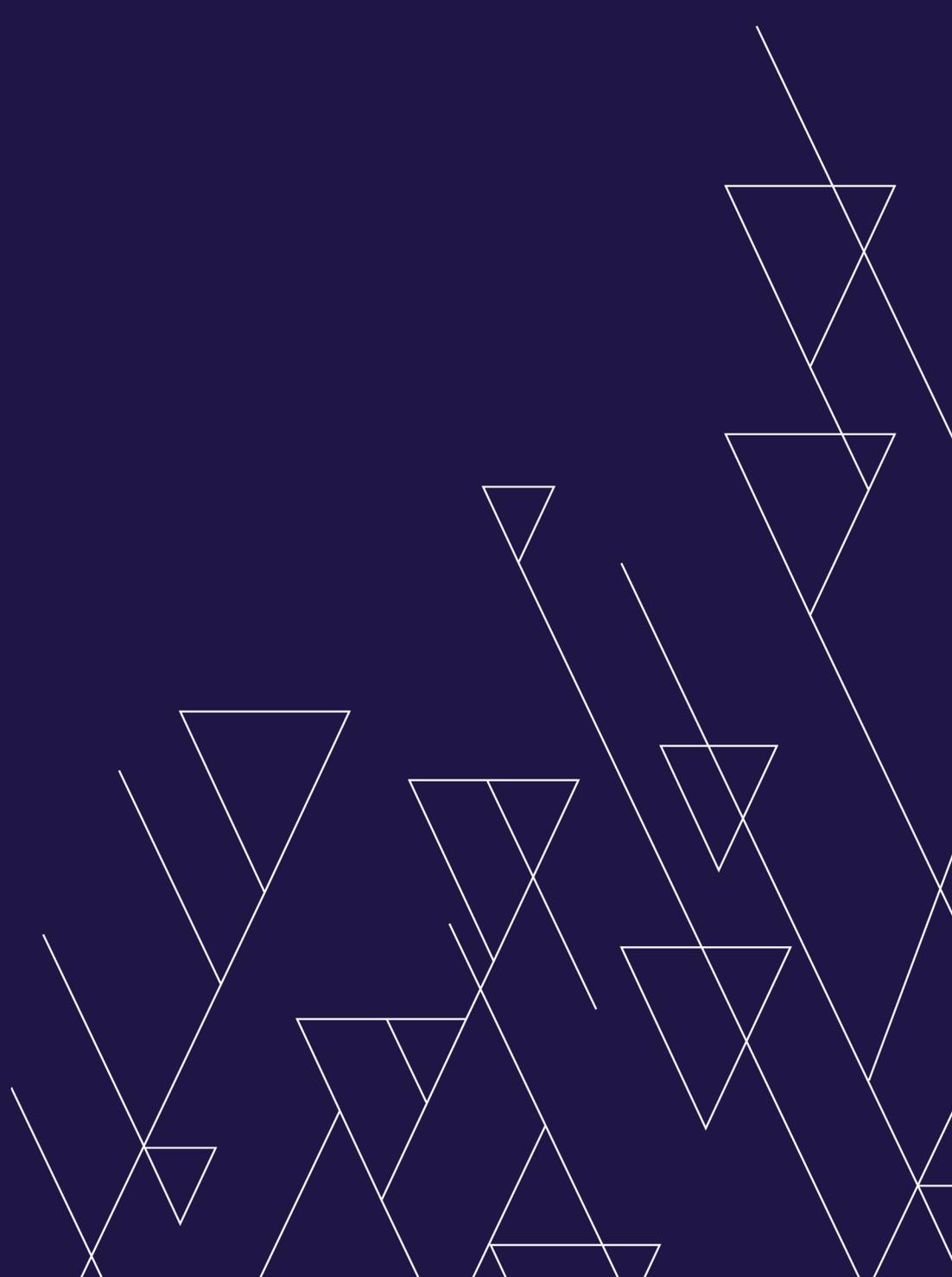




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1. Executive summary

Section 21A of the *Victims' Charter Act 2006* (Vic) (Victims' Charter) requires the Attorney-General to review the 'legislative and non-legislative changes that are necessary and appropriate to improve the experience of victims participating in summary proceedings for criminal offences.' A report of the review must be tabled¹ in Parliament by 4 November 2021. This is the report of that review.

The report:

- summarises the review's background
- provides information about the nature of summary proceedings and how victims experience such proceedings
- outlines key issues that are likely to result in the highest impact improvements for the largest number of victims
- proposes recommendations regarding these issues to improve victims' experience of summary proceedings.

1.1 Findings and recommendations

1.1.1 Prosecution decision-making

Findings

The review found that victims participating in summary proceedings feel that they have more agency where they have access to information, both about the criminal justice process generally and their case specifically.

Currently, victims often feel disengaged or disconnected from summary proceedings. There are various reasons for this, including a lack of information about or understanding of the process (including regarding police charging practices), and feeling their experience is not taken into account. Gaps in information or victim understanding of the criminal process can result from victims not being given sufficient information or assistance by investigators or prosecutors, as well as generally low levels of legal literacy in the community.

The review also found that victims often bear the onus to seek out information, rather than information being proactively provided to them by agencies involved in summary proceedings. This impacts victims' ability to participate effectively in summary proceedings affecting them.

The ability to deal with matters quickly promotes the interests of justice and is a key objective of summary proceedings. Efficiency in summary proceedings serves the interests of victims, accused persons, the courts, and the Victorian community more broadly. A fast resolution to a criminal matter can benefit victims for several reasons, including:

- allowing victims to move forward in their recovery
- reduced interactions with police or the court system, which can be distressing
- victims may feel safer from the offender, or from similar criminal acts, once their case has been resolved

¹ To 'table' a document means to formally present the document to Parliament. This ensures that the document is available to members of Parliament and the public.



- a finalised criminal case may make it easier for a victim to apply to the Victims of Crime Assistance Tribunal.

Summary proceedings currently operate to prioritise resolution of matters via a guilty plea at the earliest opportunity. The review acknowledges that imposing additional requirements on prosecutors to consult victims on certain decisions can have benefits for victims. However, this potential benefit must be balanced against the risks of delaying the resolution of summary proceedings (both in individual cases and across the court system), and the detrimental impacts such delays may have for victims and the system more broadly.

The review found that, given these considerations, the benefits of introducing a requirement to consult victims would be outweighed by the risks this would pose to the effective and efficient functioning of the summary jurisdiction. Nevertheless, there are opportunities to improve information provision to victims which should be pursued, and which the report recommends.

Recommendation 1

The Department of Justice and Community Safety, in collaboration with other agencies involved in summary proceedings, should develop comprehensive resources on summary proceedings to provide victims with:

- a clear understanding of what they are likely to experience
- their role in proceedings
- key features that will affect them (such as charging practices, plea negotiations, timeframes, and the victim impact statement process).

These resources should be co-designed with victims, and should be accessible so as to reflect the diversity of victims, including by being available in multiple languages, and in formats accessible by people with disabilities or differing literacy levels.

Recommendation 2

Victim information and resources should be made available in a single place. This might be through the establishment of a Victims' Portal, and should aim to achieve integration to link support services available to victims, Victoria Police and court information relevant to the victim.

Recommendation 3

Agencies involved in summary proceedings should consider what adaptations could be made to existing IT systems or what new systems could be developed to allow easier communication of court dates, progress of matters and court outcomes to victims about the case relevant to them.

Recommendation 4

As part of their duty to provide certain information to victims about the progress of a case, prosecutors in summary proceedings should give victims information about the resolution process, including why charges are laid, why charges may not be laid, and why some charges are later withdrawn.

1.1.2 Participating in court processes

Findings

The review found that if victims miss the opportunity to participate in the court process (for example, by making a victim impact statement), their perceptions of fairness, legitimacy, and feelings of being heard in the court process can be negatively affected. This can significantly



impact their recovery and wellbeing. Poor psychosocial and health outcomes are more likely if victims do not receive adequate and timely support to participate in court processes.

The review considers that the victim impact statement process is an important opportunity for victims to participate in the criminal process, and can be a very positive experience for victims (noting that, for others, issues regarding the process for making a victim impact statement can have a negative impact on their experience). However, a lack of awareness of the ability to make a victim impact statement, alongside issues with timing for making one, mean that it is often difficult for victims to provide a victim impact statement in summary proceedings. The review recommends improvements to address this issue.

The review also found that the use of sentence indications can also affect victims' ability to effectively participate in summary proceedings. Magistrates can give sentence indications at any point during proceedings. A magistrate may decline to give a sentence indication if they consider that there is not enough information about the impact of the offence on any victim.² Making a sentence indication at an early stage of proceedings can encourage an accused person to plead guilty, and has the benefit of facilitating the speedy resolution of proceedings, with resulting benefits to victims and others. However, doing so may preclude the victim from participating effectively in the proceedings. Victims who miss the chance to provide input into a significant court decision that impacts the type of sentence an offender receives may feel unheard in the justice system. It may also have a detrimental impact on a victim's recovery, given that it may be the only opportunity a victim has to participate in the criminal justice process.

The review considered various alternative options to enable the impact of offending on victims to be put before the court via alternative methods and at an earlier stage. However, the review found that all of these alternatives involve risks, including the potential to be detrimental to some victims (e.g. by exposing them to cross-examination). Given this, the review does not propose any immediate change at this time, and instead recommends further work to carefully consider the merits of these options.

Finally, the review found that there are opportunities to expand on training for people working across the criminal justice system regarding trauma-informed approaches to victim engagement that promote victim participation in court processes. Evidence-based training in trauma-informed victim engagement supported the rollout of the Specialist Family Violence Courts across Victoria, and is a good example of the change possible through quality, uniform education.

Recommendation 5

Victoria Police should amend the Victoria Police Manual to require investigators to ask victims whether they want to make a victim impact statement. Victoria Police should also amend police briefs to make information regarding victim preferences about making a victim impact statement more prominent. Any future development of electronic brief systems by Victoria Police should consider how information around victim preferences regarding victim impact statements is collected and integrated to ensure greater visibility of this information.

Recommendation 6

Victoria Police and other prosecutorial agencies in summary proceedings should co-design with victims practice guides that provide advice around working with victims for all investigators and prosecutors. This should include content on victim impact statements, their role, best practice in their use and victim impact statement compliance requirements. Existing guides, such as the

² *Criminal Procedure Act 2009* (Vic) s 60.



Judicial College of Victoria's resource, *Victims of Crime in the Courtroom: A Guide for Judicial Officers*, may assist in the development of these resources.

Recommendation 7

Victoria Police, the Judicial College of Victoria and other agencies involved in summary proceedings should co-design and deliver with victims training for investigators, prosecutors, court staff and judicial officers around the importance of victims participating in court processes, including the victim impact statement process and trauma-informed approaches.

Recommendation 8

The Government should further examine options to reduce barriers to victims participating in summary proceedings. This should be done through consultation with victims who face these additional barriers. Options to explore include:

- reviewing available victim resources to ensure they are trauma-informed and culturally safe, particularly for Aboriginal and Torres Strait Islander victims
- partnering with support services that work with particular groups of victims to enable them to help victims with the victim impact statement process (this could include training and support for such services, and engaging specialist services (such as LGBTIQ service providers) to train support services to increase their understanding of different barriers and how to tailor their support for victims through the criminal justice process)
- identifying and exploring opportunities to build or expand partnerships across agencies involved in summary proceedings, support services for victims and specialist services to support particular groups of victims with the victim impact statement process
- providing a 'translate function' and Easy English version of online victim impact statement forms to make them available to a range of culturally and linguistically diverse victims (content should also be provided in an easy-to-read format with standard margins, clear colour contrasts, and increased font size and spacing between paragraphs)
- providing guidance about the victim impact statement process in multiple languages, easy-to-read formats and with accessible options to ensure all victims can access and understand information about victim impact statements.

Recommendation 9

The Government should explore options for victims to provide information about victim impact where a victim impact statement has not yet been created. Options to explore include:

- material on victim impact provided at the time of making a statement to police
- technological options to collect information on victim experience that mitigate the risk of victims inadvertently creating differing accounts of the crime, for example, use of a privacy protected web form with targeted questions and capacity to upload medical or other documentation of harm
- giving victims an option to complete a preliminary questionnaire about the impacts of the offending at an early stage in proceedings to ensure this information is available when the matter goes to sentencing.

In assessing the merits of any options, careful consideration will need to be given to whether there are ways to mitigate the risk of victims being cross-examined on this information, thereby risking victims being re-traumatised by the process.



1.1.3 At-court support

Findings

A number of support services help court users in summary proceedings (noting that there is not a specialised victim support service that provides at-court support to all victims in summary proceedings). However, the review found that victims may not be made aware of these services and the assistance they can provide. If victims are not aware of available services before attending court, it may make it more difficult for them to seek help or ask about available services when they arrive at court. Victims may also find it difficult to distinguish between various people and their roles in court. The review makes recommendations to improve awareness (and, therefore, utilisation) of at-court support services.

Additionally, the review found that existing at-court support services offer different types of assistance to court users, depending on various factors, such as the court venue and the type of criminal matter. While there are some benefits to separating the roles among different support services, this may confuse victims. It makes it harder for victims to navigate what services are available and whether they are eligible for these supports. Victims may also be forced to tell their story repeatedly to different services or may disengage from services completely. In addition, the current system may lead to:

- inconsistencies in the type and level of support that is provided by each support service
- gaps in coverage resulting in no support being available for certain victims
- service duplication in certain areas.

The review makes recommendations to assist victims to more easily navigate existing at-court supports and gain access to the information and assistance they need on a consistent basis.

Recommendation 10

Agencies involved in summary proceedings should increase awareness of at-court support services for victims. Proposals to raise awareness of at-court support include:

- developing comprehensive resources on summary proceedings (as outlined in Recommendation 1)
- making victim information and resources available in a single place (as outlined in Recommendation 2)
- strengthening existing processes and/or establishing new processes for agencies to link victims with support services prior to court.

Recommendation 11

The Government should, in collaboration with victims, develop best practice standards for at-court support services to enable existing and new support services to offer victims high quality and consistent at-court support.

1.1.4 The COVID-19 pandemic and its impacts

Findings

The review found that the reforms implemented in response to the COVID-19 pandemic have given the courts, and those who work within them, the opportunity to review and enhance the way they operate. These technological changes may lay the basis for new operating models that remain in place beyond the pandemic.



The review was told of many instances in which participating in online hearings benefited victims, and that victims may often prefer online services because they:

- reduce the trauma and stress of personally attending court
- avoid the potential to encounter the accused person in an unfamiliar location
- enable victims to explain themselves fully.

However, the review also found that the move to online court hearings may have created additional barriers for some victims who may have found it difficult to access an online platform. The review recommends consideration be given to how barriers to access can be addressed for these victims.

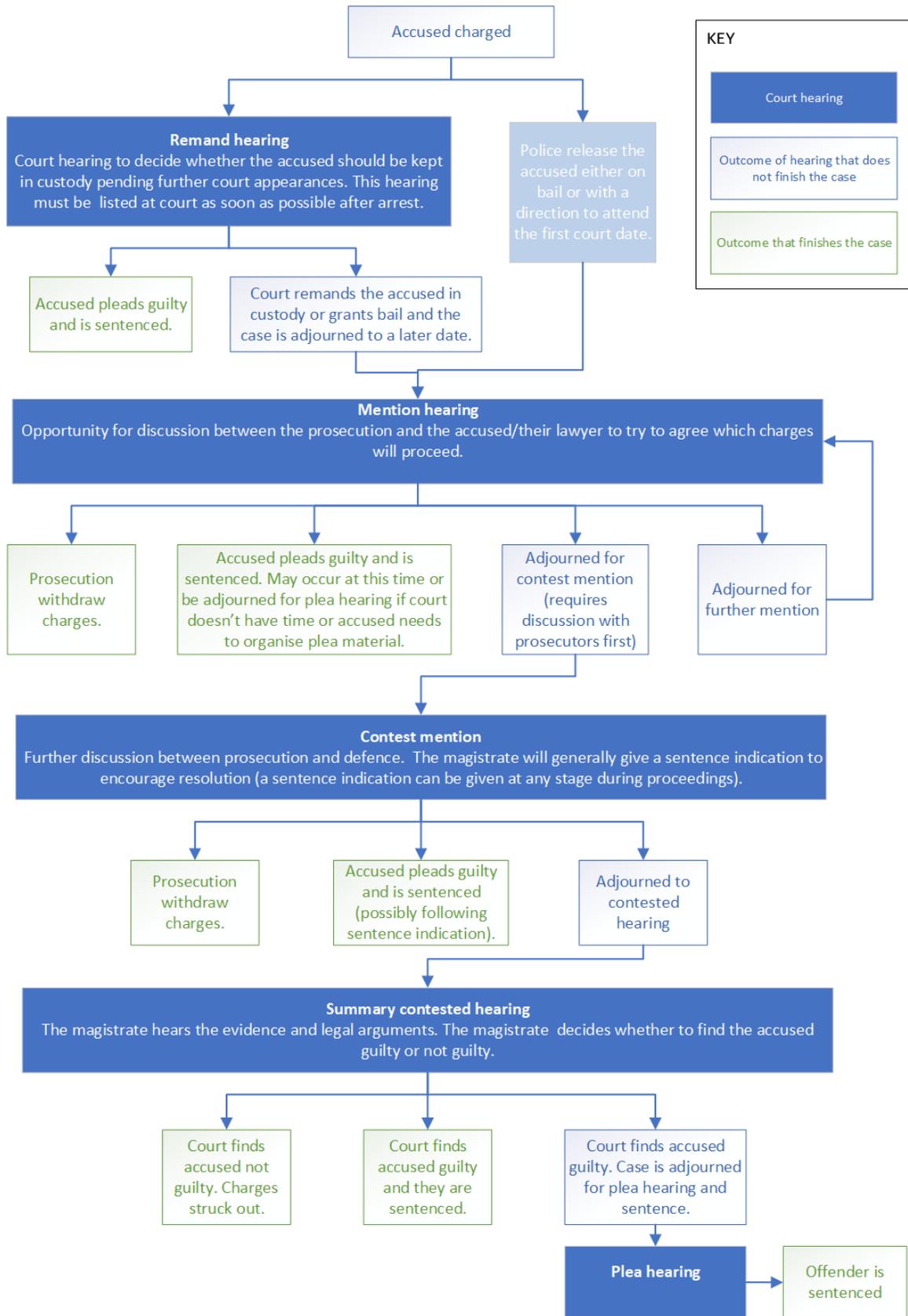
Recommendation 12

The courts and support services should, in collaboration with victims, consider:

- how technological measures introduced during the COVID-19 pandemic (for example, the use of online court hearings) can be tailored to meet victims' needs
- what, if any, additional online support options could be provided to victims to support them to participate in online court hearings.



2. Flowchart of summary proceedings





3. Introduction

3.1 The review foregrounds the experience of victims in summary proceedings

While victims are not a party to criminal proceedings, they are a participant in the criminal justice system and have an inherent interest in that system's response to the crime committed against them. Acknowledging this unique interest, the Victims' Charter contains principles to ensure victims are acknowledged, respected and provided with necessary support.

The review required by the Victims' Charter was introduced in 2018 by legislation³ that implemented Victorian Law Reform Commission (VLRC) recommendations to strengthen victims' rights as participants in the criminal justice system. These recommendations focused on victims in criminal trial proceedings, that is, indictable offences that are usually heard in the County or Supreme Courts. The VLRC indicated many of its recommendations were 'relevant and adaptable' to summary proceedings, but the resourcing, cost and time implications of the recommendations needed to be further considered to determine whether they should be adopted in that jurisdiction.⁴

This review has provided an important opportunity to strengthen victims' rights as participants in the criminal justice system, and to consider what legislative and non-legislative changes could be made to improve victims' experience of summary proceedings. In doing so, it is important that measures to improve victims' experience of summary proceedings are balanced with the objective of summary proceedings to provide timely and just outcomes, without interfering with fair hearing rights.

The complex balance of summary proceedings cannot be understated:

Our courts deal with many cases each year. Case management practices need to create a structure that provides sufficient certainty and consistency to create an efficient system while providing sufficient flexibility to adapt to the individual needs of each case.

Court time is valuable and court appearances can be expensive.

Case management processes need to make the most of each court hearing. Early case preparation and discussion between the parties can avoid unnecessary court appearances and ensure that hearings focus on the most important issues. Apart from being a large system in which offences are prosecuted, criminal procedure laws provide the framework within which important matters are dealt with that can have significant impact on the lives of many people. Going to court can be a major event in a person's life.⁵

The review will be followed by a broader review of the operation of the Victims' Charter and its benefits for victims, to be completed by the Victims of Crime Commissioner (the Commissioner). That review must commence by 4 November 2024.⁶

The review has raised several complex issues that impact victims' experience of summary proceedings. It has also highlighted the importance of including victims in designing solutions to issues affecting them and the need to address victims' diverse needs, including victims who face additional barriers to participating in summary proceedings.

With this context in mind, the report's recommendations seek to:

³ *Victims and Other Legislation Amendment Act 2018* (Vic).

⁴ Victorian Law Reform Commission, 2016, *The Role of Victims of Crime in the Criminal Trial Process*, p xiii.

⁵ Victoria, *Parliamentary Debates*, Legislative Assembly, 4 December 2008, p 4982 (The Hon Rob Hulls MP).

⁶ *Victims of Crime Commissioner Act 2015* (Vic), s 29A.



- address key issues, where possible
- provide opportunities for experts and victims to design solutions to problems flagged as important, but which require further time for consideration and implementation due to their complexity.

An overarching consideration for all the report's recommendations is the need to take into account options to reduce barriers to victim involvement in summary proceedings, most notably for victims who face additional barriers to participating in summary proceedings.

3.2 Scope of review

The review's scope was to examine victims' experiences of proceedings for summary offences and indictable offences triable summarily in the Children's and Magistrates' Courts.

It considered how victims experience processes, services, supports and protections in summary proceedings, prioritising key issues likely to result in the highest impact improvements for the largest number of victims. These issues were:

- **Victim involvement** in and understanding of decisions made by prosecutors, such as decisions to modify, continue or discontinue charges, or to accept a guilty plea
- **Victim participation** in and information about court processes, including victim impact statements (VIS) and sentence indications
- **Support services** for victims at court
- **The impact of the COVID-19 pandemic** on victims experiencing summary proceedings.

These issues address the objects of the Victims' Charter, in particular the victim's inherent interest in the criminal justice response to a crime, and the potential for re-victimisation by the criminal justice system. Further detail about these issues is contained in sections 5, 6, 7 and 8 of this report.

The review recognises there are other important topics that impact the victim experience of summary proceedings, but which are outside the scope of this review. For example, during consultations, stakeholders proposed potential reform opportunities relating to restorative justice, improvements to court infrastructure and improving access to legal assistance for victims.

The issues that the review focused on were also chosen to complement and avoid unnecessarily duplicating a wide range of other work that has been, or is being, undertaken to improve the experience of victims in the justice system generally, including victims in summary proceedings. For example, the Commissioner is undertaking a systemic inquiry into victims as participants in the justice system. The inquiry will consider victims' views on victim participation in the justice process, including what 'participation' means to victims at key stages of the process and any barriers to victim participation.

Appendix A summarises the significant program of ongoing and recently completed work on victims' experience of summary proceedings. This report incorporates the findings of these reviews and ongoing implementation work in its analysis, where it is relevant.

3.3 Engagement

As part of the review, the Department of Justice and Community Safety (the department) sought views on how victims experience summary proceedings and options for improving victims' experience of such proceedings. More specifically, the department:



- distributed an issues paper to various justice system and victim-focused stakeholders for written feedback and met to discuss the issues paper and reform proposals (**Appendix B** includes a list of written submissions received)
- consulted with the Victim Survivors' Advisory Council (VSAC) and victim representatives of the Victims of Crime Consultative Committee (VOCCC)
- engaged directly with the public, including victims with lived experience of summary proceedings, through an Engage Victoria survey (**Appendix C** summarises the Engage Victoria survey data)⁷
- presented to the Aboriginal Justice Caucus, AJA4 Women, Families and Victims Collaborative Working Group and Western Metropolitan Regional Aboriginal Justice Advisory Committee.

Some stakeholders who received the issues paper were unable to respond, due to timeframes and the impact of the COVID-19 pandemic on their capacity.

3.4 Terminology

This report uses the term 'victim' to refer to a person who has, or is alleged to have, suffered harm as the result of a criminal offence, including a family member of:

- a child victim
- a victim who is incapable of managing their own affairs because of mental impairment⁸
- a person who has died as a direct result of a criminal offence.

In criminal proceedings, a victim is a person who has suffered harm as a result of the actions of an offender. In this report, the term applies to a person alleged by the prosecution to be a victim before the accused person has been found guilty, as well as a person who has suffered due to an offence for which the offender has been found guilty.

There may be other people who have been adversely affected by crime but do not fall within this definition of 'victim'.

Many individuals who have experienced crime, including specific crime types such as family violence and sexual assault, prefer the term 'victim-survivor' or 'survivor'.

In using the term 'victim', the review does not intend to diminish the strength, identity or diversity of people who experience crime or other forms of harm.

The report uses the term 'summary proceedings' to mean proceedings for summary offences and indictable offences triable summarily in the lower courts (the Magistrates' and Children's Courts).

Criminal offences are either:

- summary offences
- indictable offences
- indictable offences triable summarily.

Summary offences have a lower maximum penalty and are usually determined by a magistrate in the lower courts (Magistrates' Court and Children's Court) without a jury.

⁷ The survey received a total of 30 responses. No individual written submissions from victims were received.

⁸ For consistency, the report's terminology is based on the definition of 'victim' used in s 3 of the *Victims' Charter Act 2006* (Vic), noting that understandings regarding the use of the term 'mental impairment' have since evolved.



Indictable offences have a higher maximum penalty and may be determined by a judge and a jury in the higher courts (County Court and Supreme Court).

Indictable offences triable summarily are types of indictable offences that can be determined by a magistrate in the lower courts without a jury.

Examples of offences in summary proceedings include some assault offences, less serious driving offences (such as driving while disqualified or unlicensed driving), and lower-level property offences, like wilful damage to property (such as graffiti, vandalism or keying someone's car).

4. The nature of summary proceedings

4.1 Summary proceedings are high volume and fast paced

4.1.1 Most criminal cases are heard in the lower courts

The overwhelming majority of criminal offences are resolved in the summary jurisdiction, with only a small proportion of offences being resolved by the higher courts. The table below indicates how many criminal matters were finalised in the Victorian courts in 2018-19.⁹

Number of criminal cases finalised in 2018-2019 (financial year)

Court	Number of criminal cases	
Magistrates' Court	173,778 ¹⁰	Total: 183,008
Children's Court	9,230 ¹¹	
County Court	2,273 ¹²	Total: 2,394
Supreme Court	121 ¹³	

Given this, most victims who have their matter heard in a court will experience summary proceedings. It is vital that appropriate supports and protections are available for summary proceedings because this will impact the recovery, wellbeing, and perceptions of fairness and confidence in the legal process for a very large proportion of those who experience the criminal justice system. The setting represents an opportunity to stem trajectories of harm and foster recovery and support, which can ensure that victims' contact with the legal system becomes a positive intervention.¹⁴

4.1.2 Summary proceedings are faster

Summary proceedings are faster than indictable proceedings. This is because there are fewer procedural steps, such as a committal hearing, before a final hearing. Further, criminal proceedings in the lower courts do not involve a jury, but are heard by a single magistrate, and jury

⁹ This date range was chosen to gain an understanding of court figures before court processes were significantly disrupted by the COVID-19 pandemic.

¹⁰ Magistrates' Court of Victoria, *Annual Report 2019-20*, p 34.

¹¹ Children's Court of Victoria, *Annual Report 2019-20*, p 22.

¹² County Court of Victoria, *Annual Report 2019-20*, p 7.

¹³ Supreme Court of Victoria, *Annual Report 2019-20*, p 8.

¹⁴ Centre for Innovative Justice, 2021, Second Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*, p 8.



trials require far more time than a hearing before a magistrate. The table below shows the time taken to finalise criminal cases in Victorian courts in 2018-19.¹⁵

Time required to finalise criminal cases in 2018-2019 (financial year)

Court	Percentage of cases finalised within set timeframes
Magistrates' Court	80.9% finalised within 6 months of case being filed at court ¹⁶
Children's Court	59% finalised within 3 months of case being filed at court 26% finalised within 6 months of case being filed at court 15% finalised in over 6 months of case being filed at court ¹⁷
County Court	71% finalised within 12 months of case being filed at court ¹⁸
Supreme Court	65% finalised within 12 months of case being filed at court ¹⁹

At the Children's Court, the Fast Track Remand Court aims to finalise criminal proceedings for children in custody within three months.²⁰

4.1.3 The nature of summary proceedings can have benefits and challenges for victims

There are a number of benefits of summary proceedings, both for the administration of justice generally, and victims in particular. These include:

- fewer delays in matters, leading to a swifter and more timely resolution of proceedings, which can assist victims in their recovery
- fewer times that victims may be required to give evidence in court, reducing the number of potentially stressful and distressing engagements victims have with the court process
- victims may find summary proceedings less intimidating than proceedings in the higher courts, for example because there is less formality in proceedings, and lawyers and magistrates do not wear wigs or gowns
- greater accessibility of the lower courts, due to the wider range of suburban, rural and regional court locations
- the ability to access specialised support services at some Magistrates' Court locations, such as at the Specialist Family Violence Courts (SFVCs).

Despite these benefits, the nature of summary proceedings can be difficult for victims because:

- matters may be brought before the court within a short time after the accused person is arrested (including on the same day), and at this early stage the victim may not have been identified by police (for example, the owner of stolen property may not have been found), and even if the victim has been identified early, they may not be in a position to be able to effectively participate in the proceedings, due to other matters they might need to deal with

¹⁵ This date range was chosen to gain an understanding of court figures before court processes were significantly disrupted by the COVID-19 pandemic.

¹⁶ Magistrates' Court of Victoria, *Annual Report 2019-20*, p 36.

¹⁷ Children's Court of Victoria, *Annual Report 2019-20*, p 22.

¹⁸ County Court of Victoria, *Annual Report 2019-20*, p 7.

¹⁹ Supreme Court of Victoria, 2019, *Annual Report 2019-20*, p 8.

²⁰ Children's Court of Victoria, Practice Direction No. 7 of 2018.



- sentencing and plea hearings are often not scheduled in advance and may be held with minimal or no notice to the victim, which affects their ability to attend and participate
- in many cases there is no opportunity for a victim to speak in court, particularly as most summary proceedings are dealt with by way of a guilty plea and a VIS is not routinely read out in court (noting victims may find giving evidence stressful)²¹
- matters are commonly adjourned several times (sometimes administratively without court appearances), and victims may not be informed of an adjournment as the prosecution is not obliged to do so (unlike the higher courts where an obligation to inform exists).

The high volume of cases in the summary jurisdiction means that proceedings must be dealt with efficiently. In some cases, delays may negatively impact victim recovery. Delays also prevent offenders from being held to account in a timely manner.

²¹ For example, in 2018-19 (financial year), 77,443 plea hearings were listed at the Magistrates' Court compared to 7,230 contested hearings (Magistrates' Court of Victoria, *Annual Report 2019-20*, p 37).



4.2 Victim experience of summary proceedings

The review was required to identify improvements to the victim experience of summary proceedings. To do so it is critical to understand the current experience of victims and where improvements may be made. Due to the high volume of summary proceedings, victim experience is often secondary to the need to ensure cases are finalised efficiently.

For victims in summary proceedings, their experience may involve some or all of the following:

- initial information about criminal proceedings being provided by Victoria Police at the relevant police station
- if the victim is told of the first court date, they may attend court and watch the matter in the public gallery (or online if the matter is being dealt with virtually)
- limited or no support services for victims located at most courts (the victim may have received telephone contact details of a support service, such as the Victims of Crime Helpline, from Victoria Police, or support from the Victims Assistance Program, if eligible)
- a lack of access to legal advice or assistance that can explain the criminal justice system to victims or advise them on their rights or interests
- a lack of opportunity to talk to the magistrate in the matter
- adjournment of the matter to another date, without the victim being informed of the new date
- not being informed that the accused person did not attend a court date (which may result in the issuing of a warrant for their arrest, or the matter being adjourned) if the victim did not attend court or follow up with Victoria Police
- the prosecution agreeing with the accused person's lawyer to withdraw some charges in exchange for a plea of guilty to other charges and the matter finalising by a plea of guilty on the day, without consulting the victim for their view on the charges, or without an updated VIS
- if the victim is aware of the court date on which a plea hearing is listed, attending court and watching the hearing in the public gallery or online for virtual hearings (but if they are not aware that they can request to read a VIS to the court, missing the opportunity to do so)
- facts and charges read to the court reflecting an agreement between the prosecution and the accused person or their lawyer (which may not reflect the full extent of the victim's experience, or the aspects of their experience that they felt were most important for the court to know)
- any VIS victims may have made is not read at court, is out of date, or has not been provided to the court at all
- being prevented from reading parts of their VIS aloud in court because it contains inadmissible material (while a magistrate can accept a VIS even if it contains inadmissible material, only the admissible parts of the VIS can be read aloud in court)
- being told by a magistrate that they cannot consider some of the VIS because the charges do not represent the facts as told by the victim (noting that a magistrate does not need to specify which parts of a VIS are inadmissible).



4.3 The diversity of victims

Victims are not a homogenous group: their distinct characteristics and experiences shape how a crime affects them and their needs following the crime.²² Some victims' circumstances make their experiences different to that of other members of the Victorian community. Such victims include:

- children and young people
- Aboriginal and Torres Strait Islander people
- people with disabilities
- people from culturally and linguistically diverse communities
- people from lesbian, gay, bisexual, trans and gender diverse, intersex, queer and questioning (LGBTIQ) communities
- people living in rural and regional communities²³
- older people
- victim-survivors of family violence or sexual assault
- offenders who are or have been victims
- people with intersectional experiences.²⁴

People within these communities can face multiple and intersecting barriers and challenges when participating in summary proceedings.

Key services for victims regularly focus on victims of violent crime against the person.²⁵ Whether allocating services based on the type of crime a victim experienced, or any other form of categorisation, is appropriate has been questioned by some stakeholders, given the type of offence does not necessarily define the impact a crime has on a victim. For example, victims of property crime (such as theft or robbery) can suffer severe emotional, psychological and physical health impacts as a result of the crime. Similarly, victims of online fraud may experience significant emotional and psychological impacts, including shame, distress and anger, as well as losing trust in others.

As indicated in research by the Centre for Innovative Justice (CIJ):

Experiences of victimisation are complex, varied and are not necessarily predicted by crime type. Victims do not necessarily experience crime as an isolated or confined experience; are likely to be impacted by the crime in a non-linear way and in the context of pre-existing vulnerabilities; and are not always able to identify and articulate what they need from the system.²⁶

²² This is explicitly recognised by s 6(2)(b) of the *Victims' Charter Act 2006* (Vic), which requires investigatory agencies, prosecuting agencies, and victims' services agencies to take into account, and be responsive to, the particular needs of persons adversely affected by crime, particularly needs relating to differences such as: race or indigenous background; sex or gender identity; cultural or linguistic diversity; sexual orientation; disability; religion; or age. See also Centre for Innovative Justice, 2019, *Communicating with Victims about Resolution Decisions: A Study of Victims' Experiences and Communication Needs*, p 10.

²³ Section 7A(b) of the *Victims' Charter Act 2006* requires investigatory agencies, prosecuting agencies and victims' services agencies to take into account, and be responsive to, the particular needs of victims living in rural and regional locations, so far as is reasonably practicable.

²⁴ In this report, 'intersectionality' refers to the way in which the effects of multiple forms of discrimination (such as racism, sexism, and classism) combine, overlap, or intersect, especially in the experiences of marginalised individuals or groups.

²⁵ Centre for Innovative Justice, 2020, *Strengthening Victoria's Victim Support System: Victim Services Review Final Report*, p 44.

²⁶ Centre for Innovative Justice, 2021, *Second Submission to Department of Justice and Community Safety Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*, p 2.



Reforms to improve victims' experience of summary proceedings will need to reflect and respond to the diverse experiences of victimisation.

4.4 Victims' Charter obligations

The Victims' Charter provides the overarching context for the review and for how the justice system as a whole should work with victims to promote their agency and wellbeing. The objects of the Victims' Charter are:

- to recognise the impact of crime on the victims of that crime, including the impact on members of victims' families, witnesses to the crime and in some cases, the broader community
- to 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 process
- to 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 the Victims' Charter, and to acknowledge the victim's role as a participant, but not a party, in proceedings for criminal offences
- to help reduce the likelihood of secondary victimisation by the criminal justice system.²⁷

Key prosecution obligations to victims under the Victims' Charter are outlined in **Appendix D**. Significant rights victims have in summary proceedings are:

- victims should be treated with dignity and respect by prosecuting agencies²⁸
- prosecuting and investigatory agencies should provide victims with information about, and referrals to, relevant support services and entities that provide possible entitlements and legal assistance²⁹
- the needs and preferences of victims should be considered in relation to how prosecutors communicate and engage with them³⁰
- prosecutors should provide certain information to victims about the progress of the case³¹
- the Director of Public Prosecutions must provide reasons for certain decisions and 'seek the views' of victims in relation to those decisions³²
- victims appearing as witnesses should be provided information about 'special protections or alternative arrangements for giving evidence' which may be relevant³³
- prosecuting agencies and courts should take steps to minimise contact between a victim and the accused in court buildings and during proceedings³⁴

²⁷ *Victims' Charter Act 2006*, s 4(1).

²⁸ *Victims' Charter Act 2006*, s 6.

²⁹ *Victims' Charter Act 2006*, s 7.

³⁰ *Victims' Charter Act 2006*, s 7B.

³¹ *Victims' Charter Act 2006*, s 9.

³² *Victims' Charter Act 2006*, ss 9B, 9C.

³³ *Victims' Charter Act 2006*, s 11(2)(a).

³⁴ *Victims' Charter Act 2006*, s 12.



- where a victim expresses a wish to make a VIS the prosecuting agency must provide information or appropriate referrals to assist the victim in preparing that statement.³⁵

These provisions form part of the legislative background to the issues discussed in this report and the recommendations made.

5. Prosecution decision-making

5.1 Context and current practice

The prosecution makes decisions about a criminal case, including:

- which evidence to present in court and how to frame that evidence in legal arguments
- which charges to pursue or withdraw, including agreements with the accused person or their lawyer to plead guilty to certain charges
- which witnesses should give evidence for the prosecution and which questions to ask the witness
- to ask for or agree with a request for an adjournment.

These decisions impact victims' experience of summary proceedings given they can substantially affect the outcome of the case and victims' perception of justice being done. They will also impact victims if they are called as a witness. Witnesses may have to attend court hearings and will often also be questioned by the accused person or their lawyers, which can be re-traumatising.

5.1.1 Obligations under the Victims' Charter

The Victims' Charter contains obligations for prosecutors to provide information to victims or to consult with victims. These obligations are outlined in detail in **Appendix D**.

Obligations for all prosecuting agencies include:

- informing victims of the offences charged and if any changes are made to the charges
- ensuring victims are aware of or know how to find out the details of the date, time and location of any hearing
- providing victims appearing as witnesses information about the trial process and their role as a witness.

Additionally, the Office of Public Prosecutions (OPP) is required to seek victims' views prior to making particular decisions, and to inform victims of the reasons for those decisions.

Individual prosecuting agencies are not specifically limited to prosecuting either summary or indictable proceedings. However, the OPP prosecutes cases primarily in the higher courts, while other prosecuting agencies prosecute matters in the lower courts. Victoria Police prosecutes most summary proceedings in the lower courts. Other agencies, such as local councils, government departments and statutory authorities also have prosecuting powers for a limited range of specific offences.

While the additional obligations placed on the OPP by the Victims' Charter are not limited to indictable proceedings, because the OPP prosecutes cases primarily in the higher courts, these

³⁵ *Victims' Charter Act 2006*, s 13.



additional obligations are effectively limited to indictable proceedings, and do not apply to summary proceedings generally.

5.2 Areas for improvement

Victims often feel disengaged or disconnected from summary proceedings, due to a combination of lacking information about or understanding of the process, and feeling their experience is not being considered. The gaps in information or victim understanding of the criminal process can result from both victims not being given sufficient information or assistance by investigators or prosecutors, as well as low levels of legal literacy in the community generally.

5.2.1 Improving how victims can be assisted to better understand summary proceedings

Stakeholders reported that victims may be alienated from the criminal justice process when they do not understand what is happening. This gap in understanding can be on a macro level, in relation to the criminal justice process generally, or at a micro level, in respect of the specific proceedings relevant to them.

These gaps in understanding continue to occur despite Victims' Charter obligations to provide victims with information. The Victims' Charter requires victims to be updated on the progress of their case. However, there is no detail regarding what this means in practice, nor is there any requirement to ensure that victims comprehend any information they are provided.

Some respondents to the Engage Victoria survey indicated that information provided to them was insufficient for their understanding.³⁶ Stakeholder feedback did not specifically address compliance with Victims' Charter obligations in this area. However, indirect feedback suggests it is possible that the continuing gaps in information provision and understanding for victims are due to poor compliance with the Victims' Charter. These gaps may also indicate divergences between victims' needs and current prosecuting agency practices. In this regard, it should be noted that section 28(1A) of the *Victims of Crime Commissioner Act 2015* (Vic) requires the Commissioner to report annually on the compliance of certain agencies, including Victoria Police and the OPP, with the Victims' Charter. This requirement, which commenced in November 2019, should help to improve compliance with the Victims' Charter over time.

When attending court victims are likely to feel distressed or upset if the process or outcome do not meet their expectations. In some cases, this may be unavoidable and unrelated to the victim's understanding of the proceedings, such as where the accused person is found not guilty or where the sentence imposed does not meet the victim's expectations. However, in other cases, this could be a result of victims' own assumptions about the process, and a product of prosecutors or the police not providing adequate information or not delivering the information in a way that meets the needs of the victim. For example:

- victims may attend a court hearing without realising a summary of the offending might be read out as this was not clearly communicated to them in advance
- court hearings that only result in an adjournment or a guilty plea with an adjournment for sentencing at a later date may leave victims with a perception that 'nothing' happened.

Where victims do not understand proceedings or the reasons for decisions, they may feel that 'proceedings were happening to us, not with us or for us.'³⁷ This can lead to victims finding the process distressing or unjust.

³⁶ See Appendix C, Review to improve victims' experience of summary criminal proceedings, Engage Victoria data, August 2021.

³⁷ Victim Survivors' Advisory Council, 2021, Joint Submission to the Department of Justice and Community Safety on the Review to Improve Victims' Experience of Summary Criminal Proceedings.



A key concern for stakeholders and victims is that victims must seek out information for themselves, rather than agencies that are involved in summary proceedings being proactive in providing this information. Changes that allow victims easier access to appropriate information should be supported by practices within Victoria Police and other prosecuting agencies, to assist victims in accessing and understanding the information they need to effectively participate.

5.2.2 Understanding police charging practices

Victims can be confused by police charging practices, which may not always be clear.

Current practices can often result in an accused person being charged with many offences, most of which will be withdrawn in the resolution process as the prosecution and accused person negotiate for a guilty plea. For example, this may occur where a person is charged with a number of alternative offences relating to the same alleged conduct (e.g. more and less serious offences that could apply to the same incident). Prosecutors may only ever intend for one of these alternative charges to proceed. However, unless this is properly explained, a victim may mistakenly believe that the accused person will be prosecuted (and, if found guilty, penalised) for all of the charged offences. The victim may then feel dissatisfied if most of these charges are subsequently withdrawn, such as where the accused agrees to plead guilty to a less serious charge.

Stakeholders broadly supported introducing a duty for prosecutors or investigators to give victims information about the resolution process, including why charges are laid and why some charges are later withdrawn. Such reform could assist in managing victims' expectations regarding court outcomes.

5.2.3 A mandatory consultation obligation would cause delay and impact outcomes

As previously noted, the Victims' Charter contains certain obligations prosecutors have to victims.³⁸ Reforms to the Victims' Charter in 2018 introduced a requirement for prosecutors to 'seek views' of victims before making certain decisions. However, this obligation only applies to the OPP and therefore primarily only arises in indictable matters. The obligation was not extended to *all* prosecutors due to time constraints of summary proceedings and a desire to avoid measures that could cause further delay.

Potential benefits

The review recognises that consultation with victims in all criminal cases may benefit victims, both serving their recovery and enhancing their sense of justice being done.³⁹ As the CIJ has noted:

According to procedural justice theory, people are more likely to see an outcome as valid if they perceive the process that led to it as being fair, even if the outcome is not reflective of what they wanted. Conversely, if people feel unfairly treated by the legal system, they will see outcomes such as court orders as less legitimate, and will be less likely to accept them.⁴⁰

The CIJ also notes that:

³⁸ *Victims' Charter Act 2006*, ss 9, 9A, 9B, 9C.

³⁹ The Centre for Innovative Justice notes 'procedural justice' can be just as, if not more, important for many victims (Centre for Innovative Justice, 2021, Second Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*, p 2).

⁴⁰ Centre for Innovative Justice, 2019, *Communicating with Victims about Resolution Decisions: A Study of Victims' Experiences and Communication Needs*, p 9.



victims are more likely to feel fairly treated by the criminal justice system when police and prosecutors: take an interest in them; give them an opportunity to express their wishes; and take their wishes into consideration.⁴¹

Even when a decision is made that they disagree with, victims are more likely to perceive the process as fair when prosecutors show them recognition and respect in their interactions. It does not, however, guarantee that victims will always accept prosecution decisions.⁴²

It is suggested that victims are most likely to feel that they have been treated fairly, and are able to accept the outcome, if prosecutors can:

- demonstrate an interest in victims
- give victims the chance to provide their wishes
- take victims' wishes into account
- give victims respect and recognition.⁴³

Consultation with victims also helps to ensure that victims are prepared for, and feel involved in, the prosecution process. It may also help to ensure that they are more likely to consider that they have been treated with courtesy, respect, dignity and sensitivity.

Stakeholder views confirmed that a lack of engagement with victims is a key concern. However, any reform to require greater engagement between prosecutors and victims, including extending current Victims' Charter obligations to all prosecuting agencies, must carefully balance the benefits of increased engagement with the other important objectives of the system, including to provide timely and just outcomes for participants (including victims), which promote the interests of justice.

The review considers that prosecutors should be encouraged to consult with and involve victims in the court process as much as possible, where this aligns with the victim's wishes (noting that some victims may not wish to participate in ways that may expose them to additional trauma or distress). This reflects the potential benefits of additional consultation for victim satisfaction and engagement with summary proceedings. However, the review also recognises that changes to the conduct of summary proceedings would be needed to accommodate a mandatory consultation obligation, and that these bring with them a range of risks and impacts that need to be weighed against the potential benefit such a change could deliver for victims. The potential benefits of increased consultation should also not be overstated. It is important to note that in the current system there is limited capacity for victims to influence case outcomes. Some stakeholders identified the risk that consultation with victims could lead to misunderstanding or affect victims' expectations, which may then negatively impact victims' satisfaction with the outcome of the case.⁴⁴ When victims give prosecutors their views on how the case should proceed, they may also assume their wishes will be followed. Interactions with prosecutors could lead victims to the incorrect assumption that prosecutors are 'their' lawyer and will pursue their interests. These assumptions are particularly difficult in summary proceedings, where prosecutors must achieve the resolution of a large volume of cases in a timely manner.

⁴¹ Centre for Innovative Justice, 2019, *Communicating with Victims about Resolution Decisions: A Study of Victims' Experiences and Communication Needs*, p 9.

⁴² Centre for Innovative Justice, 2019, *Communicating with Victims about Resolution Decisions: A Study of Victims' Experiences and Communication Needs*, p 9.

⁴³ Centre for Innovative Justice, 2019, *Communicating with Victims about Resolution Decisions: A Study of Victims' Experiences and Communication Needs*, p 9.

⁴⁴ Centre for Innovative Justice, 2021, *Second Submission to Department of Justice and Community Safety Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*, p 2.



Potential drawbacks

Efficiency

Increased victim consultation would inevitably result in additional adjournments and mentions, as without this consultation with victims may not be possible or meaningful. This would reduce the efficiency of proceedings, delaying the resolution of cases and risking outcomes by generating further interactions by all system participants.

Delay and inefficiency have the potential to negatively impact victims, by prolonging the criminal process and potentially adding to their distress and dissatisfaction. It is also likely to result in less beneficial outcomes, such as a successful bail application, or a sentencing outcome that is more favourable to the accused person because they have spent additional time held on remand.

These impacts are rarely felt in the higher courts, where there are fewer cases, matters proceed on a longer timeframe of months and years, not days and weeks, and matters are more serious, so that critical issues of time on remand reflect months and years, not days, in custody, and the ultimate sentence imposed on an offender is more likely to be measured in months and years, not days. Summary proceedings must be distinguished from the higher courts on this basis.

Impacts on victims

Stakeholder feedback indicated substantial concerns with causing further delays in proceedings.⁴⁵ The ability to deal with matters quickly remains in the interests of victims, offenders, the courts, and community safety. While some victims may feel left out of proceedings, a fast resolution to a criminal matter can be beneficial for victims for several reasons, including:

- allowing victims to move forward in their recovery⁴⁶
- victims having no or less interactions with police or the court system, which victims can find distressing
- victims may feel safer from the offender, or from similar criminal acts, once their case has been resolved
- a finalised criminal case may make it easier for a victim to apply to the Victims of Crime Assistance Tribunal.⁴⁷

Fairness

The system must also balance the imperative that accused people do not spend a longer time remanded in custody than is warranted. This is important, as an accused held on remand has not yet been found guilty, and continues to be presumed innocent, as reflected in the right protected under section 25(1) of the *Charter of Human Rights and Responsibilities Act 2006* (Vic) (the Human Rights Charter). The Human Rights Charter also provides accused persons with a right to be tried without unreasonable delay.

⁴⁵ Victoria Police, 2021, Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*; Federation of Community Legal Centres, 2021, Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*, p 8; Victoria Legal Aid, 2021, Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*, p 7. Consultation with victim representatives of the Victims of Crime Consultative Committee, 2021 – fully informing victims in all cases could create unwarranted delays; one committee member noted that they would have preferred their matter be finalised more quickly rather than going on for years.

⁴⁶ Federation of Community Legal Centres, 2021, Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings* p 8.

⁴⁷ Federation of Community Legal Centres, 2021, Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*, p 8.



Currently, an accused person remanded in custody may have their matter finalised at their first mention at court. A guilty plea at this time has great system benefit, ensures the accused person has finality and certainty of outcome in their sentence, and ensures victims are not waiting for protracted discussions on outcome to occur.

In contrast, if there are delays in a matter being heard or finalised, this may result in unjust outcomes for the accused person. For example, it may mean that an accused person spends additional time on remand when they are ultimately found not guilty, or else spends longer in custody than is justified given the seriousness of the crime they have committed.

Resourcing

There are significant resourcing impacts of a consultation obligation. Summary proceedings suffer from significant time and resource limitations when compared to the higher courts. The speed of operation is necessary to support the large volume of matters that enter the lower courts daily. Introducing measures that result in further delay would, without a substantial system change and substantial increase in resourcing, risk system failure.

Placing any additional obligations on prosecutors could 'result in the real risk that prosecutors are unable to meet these demands'⁴⁸ unless there is a substantial increase in prosecutorial resources: this could result in additional delays in the system. And without matching additional prosecutorial resources with resources for other agencies upon which the summary jurisdiction relies, such as courts and lawyers for the accused person, then delays would continue to arise.

Conclusion

The review acknowledges the benefits that consultation with victims can yield and is supportive of increased consultation wherever this is practicable. The review does not recommend a mandatory consultation obligation, given the adverse impacts this could have for the other objectives of the summary jurisdiction and for the participants in the system, including victims themselves. The broader aims of summary proceedings do not favour efficiency of time and cost over victim outcomes; it is interwoven into the balance the system strikes daily to dispense justice to victims and accused persons that is both fair and efficient.

Rather than focus on fundamental changes to the relationship between prosecutors and victims in summary proceedings, the review has instead focused on improvements to the system that are achievable and will make a meaningful difference to victims' experience, without adversely impacting the broader objectives of the summary jurisdiction. The recommendations are focused on the key points that victims want to be heard and to be treated with respect. Reform in these areas is a necessary prerequisite to any wider system overhaul.

⁴⁸ Victoria Police, 2021, Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*.



5.3 Recommendations

5.3.1 Greater information provision to victims

Recommendation 1

The Department of Justice and Community Safety, in collaboration with other agencies involved in summary proceedings, should develop comprehensive resources on summary proceedings to provide victims with:

- a clear understanding of what they are likely to experience
- their role in proceedings
- key features that will affect them (such as charging practices, plea negotiations, timeframes, and the victim impact statement process).

These resources should be co-designed with victims, and should be accessible so as to reflect the diversity of victims, including by being available in multiple languages, and in formats

As noted earlier, a lack of understanding of the criminal justice process is a key barrier for victims.⁴⁹ To break down this barrier, the review recommends that better information, in a wider variety of formats and in a greater number of languages, should be made available to victims. This would help correct a fundamental imbalance many victims feel in the criminal justice system. This recommendation was broadly supported by stakeholders including VSAC and victim representatives of the VOCCC.⁵⁰

Content of resources

The resources should include information about:

- court processes (general explanations)
- prosecution decision-making (including the resolution process)
- VISs, including how to make one, what to include, how it will be considered in the sentencing process, and services available to assist in preparing a VIS
- the role of and process for making sentence indications
- the courts (including what a courtroom looks like, the roles of various court staff (and any formalities) and what to expect on the day)
- support services (including where to locate in-person assistance at court if required)
- a glossary of court language.

All new resources should be co-designed with victims. Sources of information should have clear and understandable links between them to assist victims in understanding the content and locating additional information.

Where existing resources are identified, consideration should be given to making any necessary improvements or amendments to their content, as well as enhancing victims' abilities to access this information.

⁴⁹ Victorian Law Reform Commission, 2016, *The Role of Victims of Crime in the Criminal Trial Process*, p 107.

⁵⁰ Consultation with victim representatives of the Victims of Crime Consultative Committee, 2021; Victim Survivors' Advisory Council, 2021, Joint Submission to the Department of Justice and Community Safety on the Review to Improve Victims' Experience of Summary Criminal Proceedings.



Accessibility

An essential part of this process is ensuring accessibility of information in different formats and creating resources appropriate for victims with particular needs and characteristics or who are members of a particular group who face barriers to gaining information, including:

- children and young people
- Aboriginal and Torres Strait Islander people
- people with disabilities
- people from culturally and linguistically diverse communities
- people from LGBTIQ communities
- people living in rural and regional communities
- older people
- victim-survivors of family violence or sexual assault
- offenders who are or have been victims
- people with intersectional experiences
- people who do not have access to technology.

Content must be appropriate and adapted to particular groups of victims, including by ensuring that it is culturally safe and appropriate, and that translations are available where required.

In addition, content needs to be made available in multiple formats. This may include hard copy and electronic content, and material should be available in formats that are not written, where appropriate. Information should be provided in a variety of formats or mediums, including videos or animations to assist in understanding common processes including what the court room looks like or what will happen in court.⁵¹ Consideration should be given to how information accessibility can be enhanced via the medium or format used.

Location for resources

These resources should be available in a single place. This may be via the current Victims of Crime website, or another dedicated platform hosted by another agency. Ideally this will be the central gateway website, or 'Victims' Portal' described below in Recommendation 2.

5.3.2 Victim information and resources should be made available in a single place

Recommendation 2

Victim information and resources should be made available in a single place. This might be through the establishment of a Victims' Portal, and should aim to achieve integration to link support services available to victims, Victoria Police and court information relevant to the victim.

A Victims' Portal or other online gateway should be developed to house electronic resources for

⁵¹ Consultation with victim representatives of the Victims of Crime Consultative Committee, 2021; Victim Survivors' Advisory Council, 2021, Joint Submission to the Department of Justice and Community Safety on the Review to Improve Victims' Experience of Summary Criminal Proceedings.



victims, and as a referral point to connect to support services for victims. This online gateway could be a new website or expansion of an existing website.

Stakeholders raised concerns that victims are currently required to seek out information themselves, which can increase feelings of distress or helplessness. An online gateway would provide a single and easy-to-navigate place for victims to locate the information they need. Once established, victims could be referred to this online gateway by investigating or prosecuting agencies, who would also be able to use the material for their own purposes. The online gateway should be supported by a helpline for victims who may have difficulty using the online gateway, or who need to access information in a different format.

The online gateway could include general information, as well as a mechanism for victims to access real time information about their own case. Automatic communication of court dates, described in Recommendation 3, could also be communicated via the online gateway. The potential risks of unexpected automatic notifications or the overwhelming experience of being given lots of information by investigators or prosecutors can be mitigated by the online gateway, which will allow victims to access information at their own pace.

In developing the online gateway, consideration should be given to including functionality that allows for the submission of VISs, notification of court dates and times, or a mechanism for victims to contact the prosecutors currently handling their case.

The online gateway would not need to be limited to victims of summary offences and could include more general information about typical court processes and how to access support, as well as more specialised information for particular offence types or groups of victims. This online gateway should operate as an online hub for all victims in Victoria.

5.3.3 Adapt court IT systems that already exist to communicate court dates to parties

Recommendation 3

Agencies involved in summary proceedings should consider what adaptations could be made to existing IT systems or what new systems could be developed to allow easier communication of court dates, progress of matters and court outcomes to victims about the case relevant to them.

Section 9(d) of the Victims' Charter requires prosecuting agencies to tell victims how to find out the date and time of any hearing. However, prosecutors often do not have capacity to personally keep victims updated. And while some automatic notification processes exist, they can be difficult for victims to access or understand, as they require a minimum amount of information regarding a matter, which victims may not have.

A system of automatic alerts or updates could remove the onus for victims to locate information themselves, while also making it easier for prosecutors to comply with their statutory obligation. However, it is important that any automatic notification system is opt-in, to avoid the risk of victims being distressed by an unexpected message.⁵²

Any system for victims to access must be easy to access and navigate. Such systems will need to ensure that they comply with any privacy requirements. For example, section 534 of the *Children,*

⁵² Victoria Legal Aid, 2021, Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*, p 8.



Youth and Families Act 2005 (Vic) prohibits reporting identifying details of a child offender or witness.⁵³

5.3.4 Prosecutors should give victims information about charging practices and the resolution process

Recommendation 4

As part of their duty to provide certain information to victims about the progress of a case, prosecutors in summary proceedings should give victims information about the resolution process, including why charges are laid, why charges may not be laid, and why some charges are later withdrawn.

In addition to existing obligations, prosecutors should ensure victims are informed about charging practices and the resolution process. Information about charging practices should include which charges are laid and why, as well as why charges are not laid. Such reforms could ensure that victims are provided with the necessary information to understand possible court outcomes. This may not require legislative changes; it may be able to be achieved through practical change in how prosecuting agencies meet their obligations in sections 9 and 9A of the Victims' Charter. The Engage Victoria survey data indicates that explanations of police charging practices would be very beneficial for victims.⁵⁴

In providing this information prosecutors should consider:

- how to communicate the information in a way preferred by the victim (for example, in writing, over the phone or face to face)
- explanations should be expressed in a way that is accessible to each victim, including using appropriate language and using translations where appropriate
- victims should be able to ask questions for further clarification or if they do not understand any aspect of the reasons provided to them.

Providing reasons for decisions, rather than consulting on those decisions, provides a less resource- and time-intensive option to engage victims and help them feel included in prosecution decision-making. Stakeholders reported that victims perceive the process as fairer when they understand what is happening and why.⁵⁵ Robust obligations for prosecutors to give victims reasons could therefore help to significantly improve victims' experience of summary proceedings.

Some stakeholders suggested developing templates or easily adjustable pro-forma documents to assist prosecutors or the police in providing this information. Those templates could also include options for the level of detail provided, based on a discussion with the victims about how much detail they need. Templates or pro-forma documents can be used to assist prosecutors in communicating key concepts to victims, with translations made available. Victims should be able to choose whether they receive information in a written form or orally. If explanations are provided in

⁵³ Children's Court of Victoria, 2021, Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*, [2.8].

⁵⁴ See Appendix C, Review to improve victims' experience of summary criminal proceedings, Engage Victoria data, August 2021: 42.31% of respondents to the survey ranked "Having police explain charging practices and potential court outcomes to victims to assist them to have realistic expectations about the outcomes of cases" as a number one reform which would be beneficial for victims of crime.

⁵⁵ Centre for Innovative Justice, 2021, Second Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*, p 2; Domestic Violence Victoria Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*, p 8.



writing, they should be in plain language and victims should be given clear opportunities to ask questions, including seeking further information in writing.

6. Participating in court processes

In the past, it was commonly assumed victims' needs regarding their participation in the criminal justice process only related to the outcome of a matter.⁵⁶ However, victims' needs are unique and varied. Meeting those needs requires a criminal justice system that not only supports victims to exercise their rights but recognises and acknowledges the harm they have experienced.

There are several points at which victims can participate in and receive information about court processes, including by informing the court of the impact of a crime and ensuring the prosecution understands their views about options for resolving criminal proceedings. This section considers victims' experience of court processes generally, with a focus on preparing a VIS, and the sentence indication process.

6.1 Context and current practice – victim impact statements

6.1.1 Victim impact statements bring victims' voices into the sentencing process

The VIS is an important opportunity for victims to participate in the criminal justice process. It allows victims to tell the court how the crime has affected them physically, emotionally, financially, and socially.⁵⁷ It differs from a victim's initial evidentiary statement to investigators, which describes what happened at the time of the crime.

A victim may make a VIS if the magistrate has found the offender guilty.⁵⁸ It is one information source that assists the magistrate to determine a sentence for the offender.⁵⁹

Preparing and delivering a VIS can be therapeutic and cathartic, but some can find it difficult and emotionally challenging. Others find the process of making a VIS frustrating and disappointing.

Several agencies involved in summary proceedings play a role in supporting victims to prepare a VIS. These include Victoria Police, the Victims of Crime Helpline, the Victims Assistance Program (VAP) and the Child Witness Service (see [Appendix E](#) for an explanation of the role each agency plays in supporting victims to prepare a VIS).

6.1.2 Content of victim impact statements

The prosecution is required to give victims general information about:

- the type of material that should *not* be included in a VIS because it may be inadmissible
- what happens if such inadmissible material is included in a VIS.

However, the prosecution is not required to advise victims on the admissibility of a particular VIS.⁶⁰ A magistrate can accept a VIS even though it contains inadmissible material.⁶¹ Only the admissible

⁵⁶ Centre for Innovative Justice, 2020, *Strengthening Victoria's Victim Support System: Victim Services Review Final Report*, p 9.

⁵⁷ *Sentencing Act 1991* (Vic), s 8K; *Children, Youth and Families Act 2005* (Vic), s 359.

⁵⁸ There are significant limitations in the data available around the number of victim impact statements (VIS) submitted in the lower courts.

⁵⁹ *Sentencing Act 1991*, s 8K.

⁶⁰ *Sentencing Act 1991*, s 8K.

⁶¹ *Sentencing Act 1991*, s 8L(5).



parts of the VIS relating to how the crime impacted the victim can be read aloud in court. The magistrate does not need to specify which parts of the VIS are inadmissible.⁶²

A copy of the VIS must be provided to the prosecution at a reasonable time before sentencing.⁶³ An offender or their lawyer can also object to the contents of a VIS, and may request that a victim give evidence and be questioned about the contents of the VIS.

6.2 Areas for improvement – victim impact statements

6.2.1 Providing victims the opportunity to make a victim impact statement

Victims who wish to make a VIS in summary proceedings frequently have a very short time in which to do so. This is due to the fast pace of summary proceedings and the legislated timing requirements for making a VIS. Victims can only provide a VIS after an offender is found guilty, but it also needs to be provided a reasonable time before the offender is sentenced. However, in summary proceedings it is common for an offender to plead guilty and be sentenced on the same day. Some criminal matters are finalised before a victim is even identified. As a result, victims may not have an opportunity to make a VIS, or the opportunity may arise before they feel ready to make one. Indeed, most victim respondents to the Engage Victoria survey reported that they did not have the opportunity to prepare a VIS.⁶⁴

Missing the opportunity to tell the court about the impacts of the offending can negatively affect victims' perceptions of fairness, legitimacy, and feelings of being heard in the court process.⁶⁵ This can significantly impact their recovery and wellbeing. Poor psychosocial and health outcomes are more likely if victims do not receive adequate, timely support to participate in court processes. Sometimes a magistrate can acknowledge a victim's experience in their sentencing remarks if it has been communicated to the court. However, victims may still feel disappointed that they have missed an opportunity to participate in the court process.⁶⁶

6.2.2 Early provision of victim impact statements is challenging

A victim may seek to provide their VIS to the prosecution prior to entry of a guilty plea to ensure the magistrate has the VIS when they are providing a sentence indication or sentencing the offender (discussed below at 6.3.2). However, during consultations the department heard challenges arise when victims provide their VIS to the prosecution before an accused person is found guilty. Prosecutors have a duty to disclose a copy of the VIS to the accused person's lawyer and to the court. This could undermine the prosecution's case because it could potentially expose inconsistencies between the victim's VIS and any earlier statement they made to investigators about the crime. If that matter proceeded to a contested hearing, these inconsistencies could be used by the accused person or their lawyer when cross-examining the victim to undermine their credibility as a witness.

There are also risks of exposing victims to unnecessary and additional distress if they make a VIS before an accused person is found guilty. For instance, a victim may feel further traumatised by knowing an accused person has seen how the victim has spoken about the impact of the crime on them. Similarly, if a victim is questioned about the content of their statement if the matter proceeds to a contested hearing, they may experience additional distress. Finally, if an accused person is

⁶² *Sentencing Act 1991*, s 8L(6).

⁶³ *Sentencing Act 1991*, ss 8K and 8N; *Children, Youth and Families Act 2005* (Vic), s 359.

⁶⁴ Review to improve victims' experience of summary criminal proceedings, Engage Victoria data, August 2021.

⁶⁵ Centre for Innovative Justice, 2020, *Strengthening Victoria's Victim Support System: Victim Services Review Final Report*.

⁶⁶ Judicial College of Victoria, *Victims of Crime in the Courtroom: A Guide for Judicial Officers*, p 14.



not found guilty, any VIS that was prepared early would not be used, which could cause significant distress to a victim.

6.2.3 Awareness of, and satisfaction with the victim impact statement process

During consultations, the department heard that many victims missed the opportunity to provide a VIS because they did not know that they could make one.⁶⁷ This lack of awareness may arise for a range of reasons, including an unfamiliarity with court and legal processes, having a non-English speaking background, or an inability to access support services due to geographical or technological limitations. Other victims may have insufficient time to prepare a VIS in a considered and supported way – either because they did not receive information about the VIS and the supports available to assist with making one, or they did not receive information in a way that maximised their chances of retaining and acting upon it.⁶⁸

For those victims who did go through the VIS process, mixed experiences were reported – some positive and others negative.⁶⁹ This aligns with feedback from victim representative bodies that some victims do not find the experience of providing a VIS satisfying, in part because they feel that the process, including the legislative requirements around what can be included in a VIS, constrains the way they share their experience of the crime.⁷⁰

6.3 Context and current practice – sentence indications

6.3.1 Process for making sentencing indications

A sentence indication involves a magistrate indicating the likely sentence an accused person will receive if they plead guilty to a particular charge. If the court gives a sentence indication and the accused person pleads guilty as soon as possible after that occurs, the court cannot impose a more severe sentence than the sentence it proposed in the sentence indication.⁷¹

A magistrate can give a sentence indication at any stage during court proceedings, and an accused person can ask for one at any point before formally pleading guilty.⁷² The Victims' Charter requires the prosecution to keep victims informed of developments in relevant criminal proceedings,⁷³ but there is no explicit requirement to tell victims of a request an accused person makes for a sentence indication.⁷⁴

6.3.2 Sentence indications and victim impact

The victim's voice can influence the making of a sentence indication in the following ways:

- a magistrate can refuse to give a sentence indication if they do not have enough information about the impact of the offence on the victim⁷⁵

⁶⁷ Centre for Innovative Justice, 2020, *Strengthening Victoria's Victim Support System: Victim Services Review Final Report*, p 39.

⁶⁸ Centre for Innovative Justice, 2021, Second Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*, p 4.

⁶⁹ See Appendix C, Review to improve victims' experience of summary criminal proceedings, Engage Victoria data, August 2021.

⁷⁰ Centre for Innovative Justice, 2021, Second Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*, p 4.

⁷¹ *Criminal Procedure Act 2009* (Vic), s 61(1).

⁷² *Criminal Procedure Act 2009*, s 60.

⁷³ *Victims' Charter Act 2006*, s 7B.

⁷⁴ *Victims' Charter Act 2006*, s 9. Unfortunately, there is limited data available about how many sentence indications are given in the lower courts.

⁷⁵ *Criminal Procedure Act 2009*, s 60.



- if a victim is in court, a magistrate can seek their views before giving a sentence indication⁷⁶
- if a victim is not in court, a magistrate can consider the victim's VIS, if it is available, to gain an understanding of the victim's experience.⁷⁷

6.4 Areas for improvement – sentence indications

6.4.1 Victim impact may not inform a sentence indication

Magistrates can give sentence indications at any point during proceedings. A magistrate may decline to give a sentence indication if they consider that there is not enough information about the impact of the offence on any victim.⁷⁸ Making a sentence indication at an early stage of proceedings can encourage an accused person to plead guilty. This facilitates the speedy resolution of proceedings. This means sentence indications are often given before the prosecution has consulted the victim or a VIS has been prepared. In some cases, a victim may not yet have been identified. Most victim respondents to the Engage Victoria survey reported that they did not have the opportunity to provide their views to the court before a sentence indication was given.⁷⁹

Victims who miss the chance to provide input into a significant court decision that impacts the type of sentence an offender receives may feel unheard in the justice system. It may also have a detrimental impact on a victim's recovery, given that it may have been the only opportunity that a victim had to participate in the criminal justice process.

6.5 Recommendations

6.5.1 Better communication regarding victim impact statements

Recommendation 5

Victoria Police should amend the Victoria Police Manual to require investigators to ask victims whether they want to make a victim impact statement. Victoria Police should also amend police briefs to make information regarding victim preferences about making a victim impact statement more prominent. Any future development of electronic brief systems by Victoria Police should consider how information around victim preferences regarding victim impact statements is collected and integrated to ensure greater visibility of this information.

The department heard during consultations that although victims can find making a VIS a positive experience, many miss their opportunity to make one.⁸⁰ Victim respondents to the Engage Victoria survey reported that missing the opportunity to provide views to the court was a reform priority.⁸¹ One way to address this would be for a victim's wishes regarding making a VIS to be clearer to prosecutors. This may be achieved by requiring investigators to ask victims whether they want to

⁷⁶ Magistrates' Court of Victoria, 1994, *Guidelines for Contest Mention*, [6.2].

⁷⁷ *Ibid*, [6.3].

⁷⁸ *Criminal Procedure Act 2009 (Vic)* s 60.

⁷⁹ See Appendix C, Review to improve victims' experience of summary criminal proceedings, Engage Victoria data, August 2021.

⁸⁰ Victoria Legal Aid, 2021, Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*, p 5.

⁸¹ See Appendix C, Review to improve victims' experience of summary criminal proceedings, Engage Victoria data, August 2021.



make a VIS and amending the police brief template to include a system alert or a more prominent flag for this preference

While the Victoria Police Manual currently recommends investigators seek victims' views about making a VIS, there is evidence to suggest that practice in this regard is inconsistent.⁸² Requiring investigators to seek and record victims' wishes would help improve consistency of practice in notifying the victim of the opportunity to make a VIS. It would also give victims more time to prepare their statement.⁸³ Any risk relating to victims not being in a position to make a decision about making a VIS during the investigatory phase can be mitigated by ensuring investigators are appropriately trained in trauma-informed practice (see Recommendation 7) and notify victims that they can change their mind about making a VIS. There may also be opportunities for investigators to seek victims' views at different stages in the investigation process, so if a victim's view about making a VIS changes over time, that can be reflected on the prosecution brief.

Requiring victims' wishes to be recorded would support continuity in decision making and enable prosecutors to quickly identify victim preference when the matter goes to court. Prosecutors would then be able to seek an adjournment for the victim to make a VIS, where practicable, or update the victim before the matter resolves. Any decision to seek an adjournment to get a VIS would need to be balanced against the importance of an efficient resolution of proceedings for the victim, the accused person and the broader community.

Introducing such a requirement would help raise awareness of the importance of victim participation in the VIS process and support routine collection of statements.

6.5.2 Guides for working with victims

Recommendation 6

Victoria Police and other prosecutorial agencies in summary proceedings should co-design with victims practice guides that provide advice around working with victims for all investigators and prosecutors. This should include content on victim impact statements, their role, best practice in their use and victim impact statement compliance requirements. Existing guides, such as the Judicial College of Victoria's resource, *Victims of Crime in the Courtroom: A Guide for Judicial Officers*, may assist in the development of these resources.

The review notes Victoria Police investigators and prosecutors are given technical guidance regarding the conduct of investigations and prosecutions. The review also recognises there have been many reforms and substantial cultural change in Victoria Police. Despite this, the review considers there is more work to be done to support consistent victim engagement approaches by investigators and prosecutors, given the relative lack of information available regarding working with victims in a trauma-informed way.

Police units specialising in sex offences, child witness management and family violence have resources that provide guidance around working with victims. The Judicial College of Victoria has also published a guide for all judicial officers and court staff that aims to limit victims' re-traumatisation and enhance opportunities for post-traumatic growth. Victims should be involved in a co-design process to adapt and tailor these existing resources to ensure that a lived experience lens is used to address the particular needs of investigators and prosecutors. Ensuring such

⁸² Centre for Innovative Justice, 2020, *Strengthening Victoria's Victim Support System: Victim Services Review Final Report*, p 39.

⁸³ knowmore, 2021, Submission to Department of Justice and Community Safety survey on Engage Victoria, p 5.



guidance is available will support consistent, quality approaches to victim engagement across the justice system.

6.5.3 Training for investigators, prosecutors and judicial officers

Recommendation 7

Victoria Police, the Judicial College of Victoria and other agencies involved in summary proceedings should co-design and deliver with victims training for investigators, prosecutors, court staff and judicial officers around the importance of victims participating in court processes, including the victim impact statement process and trauma-informed approaches.

Some victims report having quality, trauma-informed interactions with justice staff, while others report feeling re-traumatised by some of their encounters with the justice system. In September 2021, the Parliamentary *Inquiry into Victoria's Criminal Justice System* heard evidence from the Commissioner that judicial officers require ongoing training around trauma-informed practices to ensure they understand the impacts of trauma and the systemic barriers that can exacerbate challenges for diverse victims.

Varying victim experience suggests there are opportunities to expand on training opportunities for people working across the criminal justice system regarding trauma-informed approaches to victim engagement that promote victim participation in court processes. Evidence-based training in trauma-informed victim engagement supported the rollout of the SFVCs across Victoria, and is a good example of the change possible through quality, uniform education.

Stakeholders supported measures to enhance the skills of police, court staff and judicial officers to ensure trauma-informed victim engagement, including information provision about the purpose, availability and scope of the VIS.⁸⁴ Without trauma-informed approaches being the standard across the system, victim engagement will continue to be inconsistent, leading to poor justice outcomes for some.

Adapting existing training content and any new training should involve a co-design process with victims, including with Aboriginal and Torres Strait Islander victims and victims from culturally and linguistically diverse communities to promote culturally safe victim engagement methods and incorporate diverse voices. Appropriate safeguards will also need to be implemented to ensure the protection of any victims who participate, including access to supports to prevent any re-traumatisation.

Available training should be adapted to include contemporary evidence around the justice benefits of supporting victim participation in court processes and risks to victim recovery if the opportunity is missed, including psychosocial and health impacts, and re-traumatisation. The training should highlight the risk of entrenching trajectories of harm and further victimisation if victims have poor experiences of the justice system.⁸⁵ Training should cover the psychological and social effects of trauma on the victim, including on memory and cognition, to ensure trauma-informed delivery of information around the VIS process. Consideration should be given to review processes to ensure the training aligns with the evolving evidence base on victim engagement.

⁸⁴ Centre for Innovative Justice, 2021, Second Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*, p 4.

⁸⁵ Centre for Innovative Justice, 2021, Second Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*, p 9.



The review further notes that to be effective, any training or capacity building needs to be at all stages of the career pathway for police, prosecutors and other people involved in summary proceedings so that it builds consistent practice across the workforce.

6.5.4 Reduce barriers to victim involvement in court proceedings

Recommendation 8

The Government should further examine options to reduce barriers to victims participating in summary proceedings. This should be done through consultation with victims who face these additional barriers. Options to explore include:

- reviewing available victim resources to ensure they are trauma-informed and culturally safe, particularly for Aboriginal and Torres Strait Islander victims
- partnering with support services that work with particular groups of victims to enable them to help victims with the victim impact statement process (this could include training and support for such services, and engaging specialist services (such as LGBTIQ service providers) to train support services to increase their understanding of different barriers and how to tailor their support for victims through the criminal justice process)
- identifying and exploring opportunities to build or expand partnerships across agencies involved in summary proceedings, support services for victims and specialist services to support particular groups of victims with the victim impact statement process
- providing a 'translate function' and Easy English version of online victim impact statement forms to make them available to a range of culturally and linguistically diverse victims (content should also be provided in an easy-to-read format with standard margins, clear colour contrasts, and increased font size and spacing between paragraphs)
- providing guidance about the victim impact statement process in multiple languages, easy-to-read formats and with accessible options to ensure all victims can access and understand information about victim impact statements.

Recommendations in this report address some barriers victims face. However, as consultations have highlighted, victims are not a homogenous group. The diverse backgrounds, contexts and experiences of victims shape how they are impacted by crime and their needs as they progress through the criminal justice process.

The department sought feedback from victims and victim representatives to understand what would improve their experience in summary proceedings and increase participation. Unfortunately, the impacts of the COVID-19 pandemic and constrained timeframes for the review meant some victims and victim organisations were unable to contribute to the development of reform options. Some options for reducing barriers were identified, but these require testing with a larger, diverse group of victims to ensure that implementation is effective, feasible and addresses the multiple barriers that intersectional victims face.

Given these considerations, the Government should consult a diverse range of victims to identify and test effective ways to address systemic barriers. There may be opportunities to further map existing supports and look to leverage existing relationships and resources so any resources that already exist can reach a greater number of victims.



6.5.5 Options for collecting information around the impact of a crime on a victim

Recommendation 9

The Government should explore options for victims to provide information about victim impact where a victim impact statement has not yet been created. Options to explore include:

- material on victim impact provided at the time of making a statement to police
- technological options to collect information on victim experience that mitigate the risk of victims inadvertently creating differing accounts of the crime, for example, use of a privacy protected web form with targeted questions and capacity to upload medical or other documentation of harm
- giving victims an option to complete a preliminary questionnaire about the impacts of the offending at an early stage in proceedings to ensure this information is available when the matter goes to sentencing.

In assessing the merits of any options, careful consideration will need to be given to whether there are ways to mitigate the risk of victims being cross-examined on this information, thereby risking victims being re-traumatised by the process.

The VIS will remain the primary way in which a victim may inform the court about the impact of a crime on them. However, given the fast-paced nature of summary proceedings, it is appropriate to consider other options for ensuring that the court has information regarding victim impact, in circumstances where a victim has not had the opportunity to make a VIS before the court makes a sentence indication or sentences an offender.

In considering what options may be feasible, careful examination of the complexities associated with different approaches will be required. Some complexities that may arise include disclosure obligations, privacy issues, the risk of victims being cross-examined on the content of any statements they make, delayed victim impacts emerging after the information has been collected, the potential for victims to be re-traumatised through multiple recollections of distressing events and the need for careful management of victim expectations of justice outcomes. Despite these complexities, it is important that options are explored further, given the importance of victims being able to inform the court of the impact of an offence on them.

7. At-court support

7.1 Context and current practice

7.1.1 Attending court can be difficult and re-traumatising

Recognising each victim is unique, there are some common reasons why it may be difficult for victims to attend court, including:

- having never been to court
- being unfamiliar with court rules, legal language and processes
- not knowing what to expect or what is expected of them
- the physical environment at some courts can be prohibitive, poorly laid out, crowded and noisy, making it difficult to find the right courtroom, or access any services or information



- court staff are often very busy, and may not answer a victim's queries as they are supporting court lists and magistrates
- finding previous experiences of the criminal justice process to be isolating or anxiety-inducing, making them reluctant to attend court
- having to face the accused person or their supporters at court, fearing retaliation, or being concerned that the accused person could identify them if they are not known to each other
- the speed of court proceedings, with matters determined in a very short time, which can make victims feel rushed and overlooked
- being required to give evidence and be cross-examined by the accused person or their lawyer
- being required to relive the experience of the crime again, either by giving evidence or listening to the account of the offending being read to the court.

VSAC noted that 'as a victim survivor, an everyday person, going to court was like going to another country, with another culture, where people are speaking a language you don't understand. This impacts on your feeling of wellbeing, and confidence.'⁸⁶

Certain victims who already experience discrimination and marginalisation can face additional and intersecting barriers and challenges when participating in summary proceedings. For example:

- Aboriginal and Torres Strait Islander people may not find the court a culturally safe space
- culturally and linguistically diverse victims may face additional cultural and language barriers
- people with disabilities may experience additional accessibility issues and require reasonable adjustments to be made to be able to participate in summary proceedings
- children and young people may find court facilities are not age appropriate, have security features that may feel frightening and are confusing, intimidating, distressing and even unsafe⁸⁷
- victims who were previously offenders can find attending court reminds them of past negative experiences.⁸⁸

7.1.2 Victims' support needs vary

Victims attending court may have differing support needs. Regardless of what offence has been committed, its impact may vary between individual victims. Victims may also have differing levels of existing support available to them at court, such as friends or family members.

There are many different stages at which a victim may choose or be required to attend court (see flowchart of summary proceedings in section 2 of the report). This includes:

- at an adjournment, for the case to be moved to another date

⁸⁶ Victim Survivors' Advisory Council, 2021, Joint Submission to the Department of Justice and Community Safety on the Review to Improve Victims' Experience of Summary Criminal Proceedings.

⁸⁷ Alannah & Madeline Foundation, 2021, Submission to Department of Justice and Community Safety survey on Engage Victoria, p 2; The Centre for Excellence in Child and Family Welfare, 2021, Submission to Department of Justice and Community Safety survey on Engage Victoria, p 1.

⁸⁸ Federation of Community Legal Centres, 2021, Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*, p 14.



- as a witness giving evidence in a contested hearing, including being cross-examined by the accused person or their lawyer
- at a plea hearing, where a VIS may be read by the court, and the accused person may be sentenced.

Victims who give evidence as a witness may have greater support needs than victims at other stages in the court process, although it is acknowledged that victims are not a homogenous group, and their support needs will vary according to their individual circumstances. A victim who is a witness may have preferred not to attend court, but because they are a witness, they are required to attend by a court order.

7.1.3 Benefits of at-court support

Appropriate victim-specific at-court support:

- helps reduce the trauma and stress victims may experience
- makes victims feel safer while they are at court because a support person is present or because measures are put into place to protect them at court
- improves victims' experience of the court process, their perceptions of fairness and their confidence in the legal system
- gives victims the courage to attend court and to return to court for subsequent hearings
- provides victims who are giving evidence with an opportunity to give their 'best evidence'.⁸⁹

7.1.4 The type of at-court supports varies

Existing at-court support services are provided by different organisations and agencies, with varying levels of service provision, specialisation, eligibility and scope. The extent to which these services are available depends on several factors, including:

- the particular court the victim is attending
- the type of criminal matter
- the length of the hearing
- the characteristics of the victim (for example, whether the victim is a child)
- the available resources.

The table below provides a snapshot of some key at-court support services that can be available to victims in summary proceedings.⁹⁰

⁸⁹ Centre for Innovative Justice, 2021, Second Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*, p 2; Consultation with victim representatives of the Victims of Crime Consultative Committee, 2021; Royal Commission into Institutional Responses to Child Sexual Abuse, 2017, *Criminal Justice Report*, Parts VII to X and Appendices, p 5; Victorian Law Reform Commission, 2016, *The Role of Victims of Crime in the Criminal Trial Process*, p 104, 107.

⁹⁰ The table only covers services whose specific role it is to provide support to court users; it does not cover Victoria Police, the prosecution, legal services or court registry staff. It also does not cover at-court support services in indictable proceedings, such as the Victims and Witness Assistance Service (Office of Public Prosecutions).



Service	Support provided at court	Scope
Court Network	Court Network is a free confidential community service provided by volunteers that enables court users (including victims) in certain lower courts to better understand and navigate the court system by providing non-legal support, information and referrals. For example, it can explain how the courts operate, accompany court users in the courtroom, provide court users with a safe place in court and help explain decisions that affect court users.	Available at certain Children's and Magistrates' Courts. Generalist support service (available to all court users).
Court Support Coordinator	Certain Children's Courts have Court Support Coordinators, who are specialist members of court staff who provide services to all court users, including victims. For example, Court Support Coordinators can provide court users with information about the court process, assist them to navigate where they need to go in court, alleviate distress and anxiety felt while attending court and provide emotional support to people who are upset or seeking help.	Available at certain Children's Courts. Generalist support service (available to all court users).
Child Witness Service	The Child Witness Service offers support and preparation for children and young people (including victims) who may be required to give evidence at court in cases that involve a violent crime.	Availability limited by age and crime type. Specialised victim / witness support service.
Intermediary Program	Intermediaries are skilled communication specialists who assess and facilitate communication between vulnerable people and the courts and ensure communication with witnesses (including victims) is as complete, coherent and accurate as possible. Intermediaries are available for children and for adults with a cognitive impairment giving evidence in sexual offence and homicide court matters, including hearings of summary sexual offences in the Magistrates' Court.	Available at the Children's and Magistrates' Courts in Melbourne. Availability limited by age / disability status and crime type. Specialised victim / witness support service.
Koori Court Officers / Koori Engagement Officers	Koori Court Officers can assist Koori Court users, including working with the Koori community to help understand the court process and providing non-legal advice and support.	Limited to Magistrates' Court venues where a Koori Court is located. Generalist support service (available to Aboriginal and Torres Strait Islander court users).
Specialist Family Violence Courts (SFVCs)	SFVCs have family violence practitioners who provide non-legal information, support and referrals for family violence victims. In addition, some Magistrates' Court locations have LGBTIQ Family Violence Practitioners, which have received specific training to be sensitive to the needs of LGBTIQ court users, and some courts have Koori Family Violence Practitioners with specialist cultural and family violence knowledge.	Available at certain Magistrates' Court locations. Availability limited to family violence victims.



Service	Support provided at court	Scope
Sudanese Cultural Support Program	The Sudanese Cultural Support Program provides appropriate cultural support for families of Sudanese and South Sudanese background appearing in the Children's Court and improves their understanding of court processes. ⁹¹	Available at the Children's Court in Melbourne (with expansion plans). Generalist support service (available to Sudanese and South Sudanese court users).
Children Ahead Program Cubby House Model (Alannah & Madeline Foundation)	The Children Ahead Program is an intensive support and recovery program that supports children and young people who are victims of crime and other forms or trauma. The program has supported children and young people to attend court and provide VISs. The Cubby House Model provides a physical space and support service for children and young people at court. It provides a secure, child and youth-friendly space with a calming atmosphere to reduce anxiety and fear. It is staffed by skilled and experienced youth workers who provide emotional support to children, help them understand what is happening, and help ensure other professionals communicate appropriately with children.	Availability limited by age. The Cubby House model is available at the Children's Courts in Melbourne and Broadmeadows for children who are in emergency care or otherwise in the care of and the Department of Families, Fairness and Housing. Generalist support service (available to children and young people).
Victims Assistance Program (VAP)	The VAP provides ongoing support and case management for victims of a crime against the person.	Availability limited by crime type and at-court support provided on an 'as needs' basis by individual VAP case managers and subject to overall case load and resources. Specialised victim / witness support service.

7.2 Areas for improvement

7.2.1 Victim awareness of existing at-court support services

Despite the existence of support services whose role is to help court users in summary proceedings, victims may not be made aware of these services and the assistance they can provide. For example, victim representatives of the VOCCC commented they knew of instances where victims did not know what support might be available to them, and how to access it.⁹² Many respondents to the Engage Victoria survey for this review noted they did not access support services at court because they were not aware if any support services were available.⁹³

⁹¹ Children's Court of Victoria, *Annual Report 2019-20*, p 58.

⁹² Consultation with victim representatives of the Victims of Crime Consultative Committee, 2021.

⁹³ See Appendix C, Review to improve victims' experience of summary criminal proceedings, Engage Victoria data, August 2021: 42.11% of respondents indicated that they did not access support services at court because they were not aware if any support services were available.



Domestic Violence Victoria (DVV) and Domestic Violence Resource Centre Victoria (DVRCV) also noted access to court-based support services largely depends on the information victims are given about the services, their ability to understand and navigate these services, and whether relevant services are available at the court victims attend. In many cases victims did not receive information about support services from police and relied on police making referrals to services. For example, the CIJ, in its *Strengthening Victoria's Victim Support System: Victim Services Review Final Report*, provided an example of a child who was not referred to any support services by police and attended court unsupported, despite being eligible for assistance from the Child Witness Service. The CIJ commented that whereas matters not referred by police would ordinarily be identified on referral to the OPP, this safety net is missing for matters processed in summary proceedings.⁹⁴

The CIJ also found evidence that some groups of victims are under-represented in the Child Witness Service, despite having disproportionately high rates of victimisation. This includes children and young people from Aboriginal and Torres Strait Islander communities and those within the out-of-home care and youth justice systems. This suggests groups which are over-represented as victims can be under-represented in accessing victim support.⁹⁵

The fast-paced nature of summary proceedings, particularly when there is little notice of a matter proceeding, can mean victims do not have the time or opportunity to access supports before attending court. DVV and DVRCV indicated victims often do not have time to access services before attending court, which impacts their ability to make informed decisions about their safety.⁹⁶

If victims are not aware of available services before attending court, it may make it more difficult for them to seek help or ask about available services when they arrive at court. Victims may also find it difficult to distinguish between various people and their roles in court.

7.2.2 Inconsistencies in available at-court support services may be detrimental to victims

There is no specialised victim support service providing at-court support to all victims in summary proceedings. Victim representatives of the VOCCC identified the absence of a specialised 'victims' advocate' role at court as a deficiency with the current system.⁹⁷ Existing at-court support services offer different types of assistance to court users, depending on various factors, such as the court venue and the type of criminal matter.

There are some benefits to separating the roles among different support services. For example, support services can:

- develop specialised knowledge and skills
- focus on their specific functions or group of victims.

However, separating services in such ways may be confusing for victims. It makes it harder for victims to navigate what services are available and whether they are eligible for these supports. Victims may also be forced to tell their story repeatedly to different services or may disengage from services completely.⁹⁸ In addition, the current system may lead to:

⁹⁴ Centre for Innovative Justice, 2021, Second Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*, p 7; Centre for Innovative Justice, 2020, *Strengthening Victoria's Victim Support System: Victim Services Review Final Report*, p 207.

⁹⁵ Centre for Innovative Justice, 2021, Second Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*, p 7. The Department of Justice and Community Safety is currently undertaking work to implement the recommendations of the Centre for Innovative Justice.

⁹⁶ Domestic Violence Victoria and Domestic Violence Resource Centre Victoria, 2021, Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*, p 11.

⁹⁷ Consultation with victim representatives of the Victims of Crime Consultative Committee, 2021.

⁹⁸ Centre for Innovative Justice, 2020, *Improving Support for Victims of Crime: Key Practice Insights*, p 45.



- inconsistencies in the type and level of support that is provided by each support service
- gaps in coverage resulting in no support being available for certain victims⁹⁹
- service duplication in certain areas.

For example, Victoria Legal Aid (VLA) has noted that 'while current services are incredibly valuable, there is a general discrepancy in the availability of services, the types of services, and the expertise of services across court locations in Victoria.'¹⁰⁰

The CIJ also highlighted clear discrepancies in the support available for certain groups of witnesses, including victims, arguing these service gaps increase the risk that proceedings in summary courts will re-traumatise victims who are unsupported to participate, as well as adversely impact the quality of evidence provided.¹⁰¹

DVV and DVRCV commented on the inconsistency of available support services, noting it had been exacerbated by the introduction of SFVCs because victims who attend those courts can access different services than those available at other Magistrates' Court venues. DVV and DVRCV argue these inconsistencies, and demand for services exceeding availability, result in victims not having access to appropriate support to meet their needs, create barriers in navigating the complex justice system and can impact on victims' risk and safety.¹⁰²

Victim representatives from the VOCCC highlighted the lack of at-court support and recommended that on-site victim support workers could make a significant difference for victims in this process.¹⁰³

7.2.3 Access to support services

Victims who cannot access or are not aware of at-court support services either have to navigate the court system alone, or seek out other sources for assistance, such as Victoria Police or court staff. Over-relying on such agencies to support victims may not be appropriate, as they may not have specialist expertise or enough time to give victims the attention they need because of their other duties. This may adversely affect victims and the efficiency of the court system broadly.

The CIJ, noting the lack of specialist witness support for adult victims participating in summary matters, suggested it meant most people who experience crime have to navigate stressful court proceedings largely unassisted, potentially compounding trauma and impacting negatively on people's ability to recover from experiences of victimisation. It also compromises their ability to exercise their rights under the Victims' Charter.¹⁰⁴ DVV and DVRCV, as well as victim representatives of VSAC and the VOCCC, also highlighted navigating the court system alone can be distressing and confusing for victims.¹⁰⁵

⁹⁹ See Appendix C, Review to improve victims' experience of summary criminal proceedings, Engage Victoria data, August 2021: 15.79% of respondents indicated that they did not access support services at court because there were no support services available that met their needs.

¹⁰⁰ Victoria Legal Aid, 2021, Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*, p 11.

¹⁰¹ Centre for Innovative Justice, 2021, Second Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*, p 5.

¹⁰² Domestic Violence Victoria and Domestic Violence Resource Centre Victoria, 2021, Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*, p 10.

¹⁰³ Consultation with victim representatives of the Victims of Crime Consultative Committee, 2021.

¹⁰⁴ Centre for Innovative Justice, 2021, Second Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*, p 8.

¹⁰⁵ Consultation with victim representatives of the Victims of Crime Consultative Committee, 2021; Domestic Violence Victoria and Domestic Violence Resource Centre Victoria, 2021, Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*, p 11; Victim Survivors' Advisory Council, 2021, Joint Submission to the Department of Justice and Community Safety on the Review to Improve Victims' Experience of Summary Criminal Proceedings.



7.3 Recommendations

7.3.1 Increase awareness of at-court support services for victims

Recommendation 10

Agencies involved in summary proceedings should increase awareness of at-court support services for victims. Proposals to raise awareness of at-court support include:

- developing comprehensive resources on summary proceedings (as outlined in Recommendation 1)
- making victim information and resources available in a single place (as outlined in Recommendation 2)
- strengthening existing processes and/or establishing new processes for agencies to link victims with support services prior to court.

Given the difficulties outlined in section 7.1.1 of the report, agencies involved in summary proceedings should increase awareness of at-court support services for victims.

Victim representatives of the VOCCC noted the importance of victims knowing what services are available to them, and how to access them. This would make the process a lot easier and empower victims in the process.¹⁰⁶

The review proposes that awareness about at-court support can be raised by:

- improving information provision regarding the availability of at-court support services
- increasing the visibility of at-court support services to the community
- connecting victims to at-court support services at the earliest opportunity.

It is not intended for the list of following proposals on how to increase awareness of at-court support services to be exhaustive.

Improve information provision regarding at-court support services

The review suggests that the development of comprehensive resources on summary proceedings, as outlined in Recommendation 1, will improve information provision regarding at-court support services.

Increase visibility of at-court support services to the community

The review suggests that making victim information and resources available in a single place, as outlined in Recommendation 2, will increase the visibility of at-court services to the community.

Connect victims to at-court support at the earliest opportunity

Stakeholders noted the importance of establishing processes for Victoria Police, the courts, out-of-court support services, community legal centres and other relevant agencies to link victims with a support service prior to court.¹⁰⁷

¹⁰⁶ Consultation with victim representatives of the Victims of Crime Consultative Committee, 2021.

¹⁰⁷ Court Network, 2021, Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*; Victoria Police, 2021, Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*.



DVV and DVRCV proposed that linking victims to support services before attending court can increase their awareness and understanding of available support in court and during proceedings. Providing support services, both before and during court proceedings, is likely to also result in victims staying engaged in the process.¹⁰⁸

The review acknowledges that some victims may not be able to identify or articulate their needs or may feel overwhelmed by too much information at this stage. In some cases, there may be no appropriate services to link an individual victim to. It is critical there are multiple points in the system that can offer victims referral and information to at-court support services to ensure victims:

- are given several opportunities to engage with support services, if they wish to, including adjusting or connecting with new supports as required¹⁰⁹
- do not 'slip through the cracks' if they are missed at the initial point of contact (for example, if Victoria Police do not refer a victim to a support service, the opportunity to be linked into supports can occur elsewhere to avoid victims attending court without having received any support).

The CIJ, in its report, proposed a service model for victims that emphasises the role of warm referrals of victims to appropriate services at multiple stages throughout a victim's engagement with support services, in order to meet the individual needs of victims. This includes referral to Court Network so victims can speak to the Court Network volunteer who will be supporting them at court in advance of the hearing day.¹¹⁰

Agencies involved in summary proceedings should strengthen existing processes and/or establish new processes to link victims with support services prior to court to ensure that victims are connected to at-court support services at the earliest opportunity.

7.3.2 Develop best practice standards for at-court support services

Recommendation 11

The Government should, in collaboration with victims, develop best practice standards for at-court support services to enable existing and new support services to offer victims high quality and consistent at-court support.

The Government and victims should develop best practice guide for at-court support services

Appendix F outlines stakeholder feedback on what roles and abilities at-court support services should have. The Government should rely on these considerations to develop a best practice guide for at-court support services. The Government should develop the best practice guide together with victims to ensure that it reflects the lived experience of victims who have experienced summary proceedings. This includes victims who face additional barriers when participating in summary proceedings, as identified in section 4.3 of the report.

Best practice standards will assist existing and new support services to offer victims high quality and consistent at-court support. It is not intended for the best practice guide to limit or place undue directions on the courts or on the magistrates' powers to control proceedings as they see fit.

¹⁰⁸ Domestic Violence Victoria and Domestic Violence Resource Centre Victoria, 2021, Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*, p 12.

¹⁰⁹ Centre for Innovative Justice, 2020, *Improving Support for Victims of Crime: Key Practice Insights*, p 19-20.

¹¹⁰ Centre for Innovative Justice, 2020, *Strengthening Victoria's Victim Support System: Victim Services Review Final Report*, p 128-129.



Improvements to at-court support services require investment and ongoing resourcing to ensure support services can meet demand and deliver appropriate support to victims. The review has acknowledged this stakeholder feedback in developing the considerations for a best practice guide.

Considerations for best practice guide

The review proposes the Government and victims take the following considerations into account when developing the best practice guide:

- victim support must be available before, during and after court
- at-court support services should:
 - adopt a trauma-informed approach
 - provide active advice to victims
 - provide advice tailored to victims' individual needs
 - be culturally appropriate
 - be easy to access and navigate
 - be co-designed with victims
- further consideration is required to decide who is best placed to provide at-court support services.

When considering what particular support should be provided at court, the review suggests that at-court support services should:

- be able to respond to victims' safety concerns
- provide information about the court process
- provide practical and emotional support to victims while at court
- assist victims to participate in summary proceedings
- help victims identify other supports.

Further detail about these considerations is available in [Appendix F](#).

8. The COVID-19 pandemic and its impacts

8.1 Context and current practice

8.1.1 Court operations and at-court support services

Since 2020, the COVID-19 pandemic has significantly disrupted the operations of the lower courts, with courts forced to move from in-person, paper-based courts to courts that could hear matters online and operate in a digital environment. For example, the Melbourne Magistrates' Court launched the 'Online Magistrates' Court' to enable the Court to use video technology to hear matters online, with parties appearing from remote locations (such as their homes or police stations) via WebEx. Since its establishment, all staff and magistrates have been trained to use the technology and the Court has expanded the range of matters that can be heard online.¹¹¹

¹¹¹ Magistrates' Court of Victoria, *Annual Report 2019-20*, p 16.



The courts' transformation to online court hearings impacted support services' ability to assist victims appearing in those online court hearings and changed the type of help needed. For example, after the Children's Court moved online, the Court Support Coordinator role adapted to be able to help court users access and participate in online court hearings. Following a referral from court staff, Court Support Coordinators contact the person to ensure they understand the process, confirm how they will participate, assist with accessing any relevant documents and provide support and debrief throughout. Court Support Coordinators have found the contact often decreased parties' stress and anxiety. It also provided a consistent contact person for them if they had further needs or questions, which was often the case.¹¹² The Child Witness Service has also continued to support victims to prepare them to safely participate in online plea and sentence hearings and to give evidence from remote witness rooms.

In addition, new support programs have been developed because of the COVID-19 pandemic. For example, the Virtual Court Support Program was established to increase the availability of COVID-safe options to improve vulnerable victim and witness participation in criminal matters through the use of audio-visual technology. The Virtual Court Support Program is available to clients of the Child Witness Service and Intermediary Program.

In 2020, Court Network developed two new service models in response to the COVID-19 pandemic: 'Telephone Support' and 'Online Hearing Support'. Telephone Support has allowed Court Network to establish a state-wide service that can reach new court users regardless of geographic or accessibility barriers, and provide continuity of care and service to court users by offering pre and post-court support.¹¹³

VLA also introduced a new service model, 'Help Before Court', which focuses on early information, advice and case preparation to resolve matters as quickly as possible. It assists to connect victims to the process in a way not possible when matters are resolved on the hearing day at court as it enables negotiations to occur before court rather than on the day. This promotes victim inclusion and assists to prevent issue escalation.¹¹⁴

The reforms that arose because of the COVID-19 pandemic have given the courts, and those who work within them, the opportunity to review and enhance the way they operate. The technological changes may lay the basis for new operating models that remain in place beyond the pandemic.

8.1.2 Benefits of online court hearings

Stakeholders provided several examples of how participating in online court hearings benefited victims. As commented by Victoria Police, 'victims who previously were unable to access court due to fear, geography or other considerations now have the opportunity to participate safely and securely.'¹¹⁵

Victims may often prefer online services because they reduce the trauma and stress of personally attending court and potentially seeing the accused person in an unfamiliar location.¹¹⁶ It was noted that during the COVID-19 pandemic, many victims could participate in court proceedings at support services' offices, counsellors' offices or at home surrounded by family members or other supports,

¹¹² Children's Court of Victoria, 2021, Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*, [4.9].

¹¹³ Court Network, 2021, Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*.

¹¹⁴ Victoria Legal Aid, 2021, Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*, p 4.

¹¹⁵ Victoria Police, 2021, Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*.

¹¹⁶ Victoria Police, 2021, Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*.



whereas previously they would often have been at court by themselves without support. Services like the Child Witness Service and Orange Door also facilitate participation in court proceedings from safe, secure and supported venues.¹¹⁷

Participating in online court hearings may make victims feel more comfortable so they can explain themselves fully, without being intimidated by the presence of the accused person. The Federation of Community Legal Centres (FCLC) provided the following case study:

Melina was a victim of significant family violence. She was offered the opportunity to attend the criminal hearings via WebEx. This allowed Melina to be part of the proceedings, and listen to what was happening, while keeping her camera off. Melina took part in these proceedings while at the local family violence service. This gave her a sense of safety, with the appropriate support people around to explain to her what had happened in court. If Melina's only option had been to attend in person, she told her [Community Legal Centre] lawyer that she would not have attended due to the risk and stress of facing the perpetrator.¹¹⁸

8.2 Areas for improvement

8.2.1 Disruption to access to support services

However, the move to online court hearings may have created additional barriers for some victims who may have found it difficult to access an online platform. For example:

- it is harder to identify which support services are available online
- certain support services could not continue providing their services remotely¹¹⁹
- victims who do not have access to the internet may be disadvantaged
- victims may find it harder to effectively engage in online court hearings
- victims may need technological assistance to navigate the new online court system, in addition to being assisted with other more general court-related queries
- victims may not want to bring court proceedings 'into their home' or may not feel safe participating in court proceedings from their home
- there may be insufficient alternative venues available that would allow victims to safely participate in proceedings.¹²⁰

The Centre for Excellence in Child and Family Welfare noted there are limited facilities to provide remote evidence in rural areas. It provided an example of a remote evidence facility in Bendigo whose configuration prevents support workers from sitting in the same room as the victim to support them while giving evidence.¹²¹

¹¹⁷ Consultation with victim representatives of the Victims of Crime Consultative Committee, 2021; Federation of Community Legal Centres, 2021, Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*, p 15; The Centre for Excellence in Child and Family Welfare, 2021, Submission to Department of Justice and Community Safety survey on Engage Victoria, p 2.

¹¹⁸ Federation of Community Legal Centres, 2021, Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*, p 15.

¹¹⁹ For example, the Children's Court's Sudanese Cultural Support Program was temporarily paused due to the COVID-19 pandemic, although work is being done to enable the Program to continue remotely (Children's Court of Victoria, *Annual Report 2019-20*, p 58).

¹²⁰ Federation of Community Legal Centres, 2021, Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*, p 15; The Centre for Excellence in Child and Family Welfare, 2021, Submission to Department of Justice and Community Safety survey on Engage Victoria, p 2.

¹²¹ The Centre for Excellence in Child and Family Welfare, 2021, Submission to Department of Justice and Community Safety survey on Engage Victoria, p 2.



Some alternative venues may be inappropriate sites for victims to give evidence from. The Centre for Excellence in Child and Family Welfare offered an example of an Aboriginal woman who was required to give evidence from a police station, which caused significant distress and trauma.¹²²

Given the difficulties victims may face when they attend court hearings, including the additional complexities of appearing in online court hearings, it is important they have access to appropriate support while the courts are operating in a digital environment.

8.3 Recommendations

8.3.1 Evaluate COVID-19 pandemic measures to ensure they meet victims' needs

Recommendation 12

The courts and support services should, in collaboration with victims, consider:

- how technological measures introduced during the COVID-19 pandemic (for example, the use of online court hearings) can be tailored to meet victims' needs
- what, if any, additional online support options could be provided to victims to support them to participate in online court hearings.

Technological measures that have been introduced during the COVID-19 pandemic (such as online court hearings) should be evaluated to consider:

- how such measures can be tailored to meet victims' needs
- what, if any, additional online support options could be provided to victims to support them to participate in online court hearings.

Given the limitations of the review and the need to obtain input from key stakeholders (such as the courts, support services and victims) on development of this reform, the evaluation should be carried out by the courts, support services and victims.

Tailor online court hearings to meet victims' needs

As outlined in section 8.1.2, online court hearings offer increased flexibility in how victims can participate in summary proceedings. This flexibility may benefit victims, most notably by providing victims with an option to participate safely in court proceedings.

Several stakeholders supported using online and remote ways to participate in court proceedings introduced during the COVID-19 pandemic, suggesting online court hearings and video link technology should be used beyond the pandemic.¹²³ Victoria Police proposed victims should continue to be allowed to access court through this method even when court proceedings occur in-person at court, noting continuing remote services would ensure the needs of Victoria's diverse community are met.¹²⁴

However, as highlighted in section 8.2.1, online court hearings may create additional challenges for certain victims who find it difficult to access an online platform, who may not feel safe participating

¹²² The Centre for Excellence in Child and Family Welfare, 2021, Submission to Department of Justice and Community Safety survey on Engage Victoria, p 2.

¹²³ Federation of Community Legal Centres, 2021, Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*, p 15; Victoria Police, 2021, Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*.

¹²⁴ Victoria Police, 2021, Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*.



in court proceedings remotely or who may prefer to attend hearings in person. For this reason, technological measures introduced during the COVID-19 pandemic should be evaluated to ensure they are accessible to victims and can be used safely by victims.

In evaluating how such measures can be tailored to meet victims' needs, the review considers that flexible use of online court hearings should be based on victims' choices as to how they participate in the proceedings.¹²⁵ Noting the difficulties some victims will face when participating in online court hearings, victims should be given the option to choose whether to participate from their homes or another venue, such as a multi-disciplinary centre, a support service or a counsellor's office.¹²⁶

This consideration will need to take into account how to ensure:

- there are sufficient alternative venues to allow victims to safely participate in online court hearings
- these alternative venues are appropriate for all victims (including victims who may face additional barriers when participating in summary proceedings, such as children or Aboriginal and Torres Strait Islander people).¹²⁷

Ensure victims have access to appropriate online support options

Given the difficulties victims may face when they attend court hearings, including any additional complexities involved with online court hearings, it is important victims have access to appropriate support when appearing in online court hearings. Victoria Police noted 'remote service provision is critical for victims who are unable to attend court or access support and information in person'.¹²⁸

Stakeholders provided several proposals about how to improve online support options for victims. Sexual Assault Services Victoria indicated that during the COVID-19 pandemic victims of sexual assault have been required to give evidence remotely from police stations in many cases. In some instances, Sexual Assault Services Victoria was able to support victims through this process, but those opportunities only arose because of existing relationships between the sexual assault service and particular police members. Sexual Assault Services Victoria suggested it would be beneficial if the arrangement was systematised through protocols and specific practice standards Victoria Police would be required to fulfil.¹²⁹

Existing support options, such as services that already offer some type of online support or services that have not yet been adapted to offer support during online court hearings, could be built on to include or enhance virtual support options to provide 'real time' at-court support for victims in summary proceedings. Consideration may be given to extending the Virtual Court Support Program, which uses audio-visual technology to better support victims who are accessing the Child Witness Service and Intermediary Program, to summary proceedings where:

- a victim wishes to attend the hearing
- a 'flag' or alert on the prosecution brief suggests a victim would like to provide a VIS
- a victim may face geographic barriers to access face-to-face supports.

¹²⁵ Consultation with victim representatives of the Victims of Crime Consultative Committee, 2021; Victims of Crime Commissioner, 2021, Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*, p 15.

¹²⁶ Federation of Community Legal Centres, 2021, Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*, p 15.

¹²⁷ The Centre for Excellence in Child and Family Welfare, 2021, Submission to Department of Justice and Community Safety survey on Engage Victoria, p 2.

¹²⁸ Victoria Police, 2021, Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*.

¹²⁹ Sexual Assault Services Victoria, 2021, Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*, p 4-5.



The FCLC noted some online court hearings were not very accessible to victims, highlighting there were additional barriers to victims being advised of the time for a court hearing and victims were often required to actively pursue the court to ensure they were provided with video link details. The FCLC proposed victims would benefit from having a dedicated court service that could liaise with victims (or their support worker or lawyer) about when a matter is being heard online so they can choose whether to attend.¹³⁰

Other audio-visual technology should also be considered for other service offerings that may benefit victims.

9. Glossary

Accused person	A person the police think has done something wrong or who has been charged with an offence, but the person has not yet been found guilty or not guilty of that offence.
Adjournment	When the court moves a case to another date.
Bail	A promise to go to court to face charges on a certain date. Bail may have conditions, like reporting to the police or living at a certain place.
Charge	The offence the police say that a person has committed.
Committal hearing	A hearing held in the lower courts to decide whether there is sufficient evidence to transfer a case to be heard in the higher courts. The review did not consider committal hearings because they are not part of a summary proceeding.
Criminal offence	An action the law says is wrong (illegal). Criminal offences are either summary offences or indictable offences. Some indictable offences are triable summarily. This means they can be heard in the lower courts.
Higher courts	Indictable offences are determined in the higher courts, unless the offences are triable summarily. In this review, 'higher courts' refers to the County and Supreme courts. The higher courts can impose the maximum sentence that is specified by Parliament for that particular offence. The review did not consider criminal proceedings in the higher courts.
Indictable criminal proceedings	Criminal proceedings heard in the higher courts or criminal proceedings heard in the lower courts but that relate to indictable offences that are not triable summarily (for example, committal proceedings in the lower courts). The review did not consider indictable criminal proceedings.
Indictable offence	An offence that has a higher maximum penalty and may be determined in the higher courts. The review did not consider proceedings for indictable offences that are not triable summarily.
Indictable offence triable summarily	A type of indictable offence that can be determined by a magistrate in the lower courts without a jury. Unlike the Magistrates' Court, the Children's Court can determine nearly all

¹³⁰ Federation of Community Legal Centres, 2021, Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*, p 15.



	<p>indictable offences summarily (other than seven death related offences). Examples of indictable offences that are triable summarily include:</p> <ul style="list-style-type: none"> recklessly causing injury, intentionally causing injury, recklessly causing serious injury and other assault offences certain theft, robbery, burglary and aggravated burglary offences certain sexual offences. <p>The review did consider proceedings for indictable offences triable summarily.</p>
Lower courts	<p>Summary offences and indictable offences that are triable summarily are determined in the lower courts. In this review, 'lower courts' refers to the Magistrates' and Children's Courts.</p> <p>There are limits on the maximum sentences and fines lower courts can impose. The Magistrates' Court can only impose a maximum sentence of two years' imprisonment for a single offence, regardless of what the maximum penalty is for that particular offence. If the Magistrates' Court is sentencing for multiple offences committed at the same, the Court can impose a maximum sentence of five years' imprisonment for all those offences.</p> <p>The review considered summary proceedings in the lower courts. It did not consider legal proceedings heard in other courts, such as the County Court, Supreme Court or Coroners Court.</p>
Magistrate	<p>A judicial officer in the lower courts who hears cases and decides whether someone is guilty or not, and what punishment (sentence) they get.</p> <p>The report refers to all judicial officers in the lower courts as 'magistrates', acknowledging the President of the Children's Court and the Chief Magistrate of the Magistrates' Court are judges, and that judicial registrars have limited powers to determine summary proceedings.</p>
Offender	<p>A person who has been found guilty or has pleaded guilty to a crime.</p>
Penalty	<p>A punishment for breaking the law. For example, imprisonment or a fine. The law decides the maximum penalty the court can impose for a criminal offence.</p>
Prosecution	<p>An agency responsible for conducting criminal matters in court on behalf of the State. This involves presenting evidence and legal arguments in court to prove the criminal case (i.e. show that the accused person is guilty).</p> <p>The prosecution is also responsible for deciding which charges to pursue, based on the agency's prosecution policy, which includes consideration of the strength of the available evidence.</p> <p>A prosecutor appears on behalf of the prosecution in court and calls witnesses and presents evidence to prove the criminal matter.</p> <p>Victoria Police prosecute nearly all offences determined in the lower courts and the Office of Public Prosecutions prosecute nearly all offences determined in the higher courts.</p>
Remand	<p>A person who has been charged with a criminal offence, but not yet convicted of the offence, is ordered to stay in prison until their case has finalised.</p>
Sentence	<p>The punishment imposed by a magistrate when a person has pled guilty or been found guilty of a criminal offence.</p>
Sentence indication	<p>A sentence indication is when a magistrate indicates the likely punishment a person will receive if they plead guilty to a particular charge.</p>



Sentencing / plea hearing	A court hearing when matters relevant to imposing sentence, including matters personal to the offender and the victim impact statement, are presented to the magistrate.
Summary proceedings	<p>Criminal proceedings relating to summary offences or indictable offences triable summarily heard in the lower courts.</p> <p>The review considered summary proceedings. It did not consider legal proceedings in other courts, such as the County Court, Supreme Court or Coroners Court.</p>
Summary offence	<p>An offence with a lower maximum penalty that is usually determined by a magistrate in the lower courts without a jury.</p> <p>Examples of summary offences include:</p> <ul style="list-style-type: none"> • some assault offences • driving offences • wilful damage to property. <p>The review considered criminal proceedings for summary offences.</p>
Victim	<p>The word 'victim' is used in laws dealing with prosecution, punishment and financial reparation and is defined in different ways in different contexts.</p> <p>The report uses the term 'victim' to refer to a person who has, or is alleged to have, suffered harm as the result of a criminal offence, including a family member of:</p> <ul style="list-style-type: none"> • a child victim • a victim who is incapable of managing their own affairs because of mental impairment • a person who has died as a direct result of a criminal offence. <p>In criminal proceedings, a victim is a person who has suffered harm as a result of the actions of an offender. In this report, the term applies to a person alleged by the prosecution to be a victim before the accused person has been found guilty, as well as a person who has suffered due to an offence for which the offender has been found guilty.</p> <p>The review acknowledges that many individuals who have experienced crime, including specific crime types such as family violence and sexual assault, prefer the term 'victim-survivor' or 'survivor'.</p> <p>In using the term 'victim' the review does not intend to diminish the strength, identity or diversity of people who experience crime or other forms of harm.</p>
Victim impact statement	A victim impact statement (VIS) helps a magistrate understand the impact of a crime on the victim. Victim impact is one of the factors considered during the sentencing process. A VIS explains how a crime has affected a victim and can refer to any physical injury, financial loss, emotional trauma or property loss suffered as a direct result of the crime.
Warrant	A court document that says what the police can do, such as arrest someone.
Withdraw charge	If the prosecution decides not to proceed with a criminal charge against a person, they apply to withdraw the charge in court. If the criminal charge is withdrawn, the person is no longer accused of having committed that offence.



Appendix A – Ongoing and recent reforms

The following tables outline ongoing and recent reforms that aim to improve the experience of victims generally, including victims in summary proceedings.

Ongoing work			
Review / Project	Date	Purpose of work	Relevance
<p><i>Systemic Inquiry – Victims as Participants in the Justice System</i></p> <p>Victims of Crime Commissioner</p>	To be confirmed.	<p>Since 2018, the <i>Victims' Charter Act 2006</i> (Vic) has recognised victims as a participant, but not a party, in proceedings for criminal offences. This change followed the report of the Victorian Law Reform Commission (VLRC), <i>Victims of Crime in the Criminal Trial Process</i>, which recommended that the role of the victim as a participant in criminal proceedings be legislatively and 'operationally recognised'.</p> <p>The Victims of Crime Commissioner will undertake a systemic inquiry into victims as participants in the justice system.</p>	<p>The inquiry will consider:</p> <ul style="list-style-type: none"> • what 'participation' means to victims at key stages of the justice process and how the current (legislated) participatory rights translate to meaningful participation at key stages of the justice system • the respective roles of various justice and victims' services agencies in upholding victims' participatory rights • the views of victims, the justice sector and victims' services on victim participation in the justice process, including their views on any barriers to victim participation and associated impacts on the justice system and the scope of services' role or operations • whether further reforms are required to enable meaningful participation by victims (involving either legislative reform, cultural change, procedural or service system delivery changes) • approaches to victim participation in other jurisdictions and academic and other literature on best practice approaches to victim participation • whether the right tools and systems are in place to measure victim participation in the justice system, and their satisfaction with their participation in the justice system.
<p><i>Stalking</i></p> <p>VLRC</p>	Interim report due on 31 December 2021, and final report due on 30 June 2022.	The VLRC will review legal responses to stalking, harassment and similar conduct. It will identify barriers to current laws effectively responding to the conduct, and make recommendations to address these barriers and improve the justice system's response, with victim safety and wellbeing paramount.	<p>The review will draw on support services for victims, best practice from the family violence system and criminological research. It will consider:</p> <ul style="list-style-type: none"> • how the law can be strengthened to promote and enhance victim safety and wellbeing • barriers to reporting for victims of stalking.
<p><i>Inquiry into Victoria's Criminal Justice System</i></p> <p>Legislative Council, Legal and Social Issues Committee</p>	Report due on 28 February 2022.	<p>The Legal and Social Issues Committee will inquire into various issues associated with the operation of Victoria's justice system, including:</p> <ul style="list-style-type: none"> • factors influencing Victoria's growing remand and prison populations • how to ensure magistrates have appropriate knowledge and expertise when sentencing and dealing with offenders, including an understanding of recidivism and the causes of crime. 	<p>The inquiry may consider issues that are relevant to summary proceedings, including:</p> <ul style="list-style-type: none"> • the impact the growing remand and prison population has on summary proceedings • sentencing practices in summary proceedings.



Recent work			
Review / Project	Date	Purpose of work	Relevant findings
<p><i>Improving the Response of the Justice System to Sexual Offences</i></p> <p>VLRC</p>	<p>Report delivered to Attorney-General on 20 September 2021 (to be tabled in Parliament within 14 sitting days of delivery to Attorney-General).</p> <p>Report on proposed new 'grab and drag' offence due by 15 December 2021.</p>	<p>The VLRC reviewed:</p> <ul style="list-style-type: none"> the laws relating to rape, sexual assault and associated sexual offences the impact of the changes that have been implemented since it last reported on <i>Sexual Offences (2004)</i>, <i>Evidence (2006)</i> and <i>Victims of Crime in the Criminal Trial Process (2016)</i>. <p>It will also consider if there should be a new 'grab and drag' offence.</p>	<p>As part of this review, the VLRC has considered best practice for supporting sexual offence complainants and witnesses in the justice system more broadly.</p>
<p><i>How to Work with Vulnerable Witnesses</i></p> <p>Judicial College of Victoria (JCV)</p>	<p>April 2021</p>	<p>The JCV developed resources to help judicial officers work with children and vulnerable witnesses (including victims) in the courtroom.</p>	<p>The resources highlight best practice on how to communicate and question vulnerable witnesses, including:</p> <ul style="list-style-type: none"> identifying communications issues with vulnerable witnesses best practice videos on how to conduct a ground rules hearing and how to manage the questioning of vulnerable witnesses providing supporting materials, such as relevant legislation, court guides, visual aids, fact sheets and articles about communication.
<p><i>Strengthening Victoria's Victim Support System: Victim Services Review</i></p> <p>Centre for Innovative Justice (CIJ)</p>	<p>November 2020</p>	<p>The report was commissioned by the Department of Justice and Community Safety (DJCS) to review and redesign victim services to ensure that a future service model is aligned to, and keeps pace with, contemporary knowledge in victim support.</p>	<p>The review focused predominantly on providing non-legal support to victims. It:</p> <ul style="list-style-type: none"> found that victims had to navigate a complex and fragmented support system, which often compounded their experiences of trauma and that of their families recommended a new service model that minimises victims' burden to navigate the system, responds to the diversity of victims' experiences and addresses barriers limiting access to appropriate support for victims proposed a new Victims Legal Advice Service to provide victims with tailored legal information and advice, referrals and discrete task assistance (the 2021-21 Victorian Budget provides funding for a legal service delivered by Victoria Legal Aid and community legal centres to assist victims with applications to the Financial Assistance Scheme and for restitution and compensation orders).
<p><i>Communicating with Victims about Resolution Decisions: A Study of Victims' Experiences and Communication Needs</i></p> <p>CIJ</p>	<p>April 2019</p>	<p>The Office of Public Prosecutions (OPP) commissioned the CIJ to conduct research into victims' experience of being consulted by OPP lawyers about resolution decisions.</p>	<p>Although the study relates to the OPP's work in indictable criminal proceedings, certain findings may be relevant to prosecuting agencies more generally. The review found that victims:</p> <ul style="list-style-type: none"> want a genuine opportunity to contribute their views (not be told about a decision) want the OPP to understand and address <i>their</i> individual priorities want to receive enough information about the case to allow them to give an informed view appreciate it when the OPP is personable and builds a rapport with them want a strong professional relationship with the OPP. <p>The review recommended that:</p> <ul style="list-style-type: none"> the OPP liaise with Victoria Police to identify strategies to support police officers to communicate effectively about prosecution processes and decisions given unrealistic expectations about the prosecution process and outcomes can be barriers to effective consultation about resolution decisions the OPP explore further opportunities to liaise with court representatives to highlight the value of providing sufficient time to consult victims about resolution decisions.



<p><i>Victims of Crime in the Courtroom: A Guide for Judicial Officers</i> JCV</p>	<p>2019</p>	<p>The guide outlines steps judicial officers and court staff might be able to take to limit the potential for the court experience to re-traumatise victims, without compromising the integrity of the criminal justice system.</p>	<p>The guide assists judicial officers to manage the following issues:</p> <ul style="list-style-type: none"> • understanding trauma • how victims experience the courtroom • victims as witnesses (with a focus on facilitating best evidence) • plea hearings, victim impact statements (VISs) and sentencing • victims with culturally, linguistically and religiously diverse backgrounds, disabilities, the LGBTI community, Aboriginal and Torres Strait Islander Peoples • victims of family violence and sexual offences • children and young people • duties of investigatory agencies, prosecuting agencies and victims' services agencies.
<p><i>Restitution and Compensation Orders: Report</i> Sentencing Advisory Council (SAC)</p>	<p>October 2018</p>	<p>The report examined whether restitution and compensation orders should become sentencing orders or remain ancillary orders that are imposed in addition to the sentence.</p>	<p>The report recommended restitution and compensation orders remain ancillary orders. It also made recommendations aimed to help victims obtain financial assistance throughout the criminal trial process.</p>
<p><i>Review of the Victims of Crime Assistance Act 1996</i> VLRC</p>	<p>July 2018</p>	<p>The review examined the operation and effectiveness of the <i>Victims of Crime Assistance Act 1996</i> and the Victims of Crime Assistance Tribunal (VOCAT) for all victims.</p>	<p>The VLRC recommended a new administrative model of state-funded financial assistance be established to replace the quasi-judicial model. The new model should focus on helping victims in their recovery and be separate from the criminal court system and any potential for the alleged perpetrator to be involved. DJCS is progressing this reform.</p>
<p><i>Criminal Justice Report</i> Royal Commission into Institutional Responses to Child Sexual Abuse</p>	<p>August 2017</p>	<p>The Royal Commission inquired into institutional responses to allegations and incidents of child sexual abuse and related matters.</p>	<p>The Royal Commission made several recommendations regarding victims:</p> <ul style="list-style-type: none"> • that the criminal justice system be reformed to ensure criminal justice responses are available for victims and victims are supported in seeking such responses • regarding prosecution responses, improving communication with victims and police about key prosecution decisions and developing standard material for complainants to better inform them about giving evidence • improving information and support for victims in relation to making VISs • improving special measures and courtroom experiences to help witnesses give their best evidence in child sexual abuse prosecutions, including: <ul style="list-style-type: none"> ○ allowing witnesses to give evidence via closed circuit television or audio visual link ○ allowing witnesses to be supported when giving evidence through the presence of a support person or a support animal or by creating a more child-friendly environment ○ using screens so the witness cannot see the accused while giving evidence ○ clearing the public gallery of a courtroom during the witness's evidence ○ removing judges' and lawyers' wigs and gowns when the witness is giving evidence ○ using pre-recorded investigative interviews as evidence ○ recording evidence given during a trial to use in any later trial or retrial ○ introducing intermediary schemes.
<p><i>The Role of Victims of Crime in the Criminal Trial Process</i> VLRC</p>	<p>August 2016</p>	<p>The VLRC reviewed the role of victims in the criminal trial process, including considering:</p> <ul style="list-style-type: none"> • what role the victim ought to play in trials • what changes to the law and court proceedings might better accommodate victims' rights, expectations and sensitivities. 	<p>The VLRC's recommendations were limited to indictable offences heard in the higher courts. However, the VLRC noted many recommendations were relevant and adaptable to the summary jurisdiction. Key recommendations include:</p> <ul style="list-style-type: none"> • requiring prosecuting agencies to inform victims about the contents of a VIS that may be ruled inadmissible



			<ul style="list-style-type: none"> • allowing sentencing judges to accept all of a VIS despite it containing inadmissible material (while the judge may only rely on parts of the VIS that are admissible, the judge will not have to specify which material is not being relied upon) • requiring the OPP to: <ul style="list-style-type: none"> ○ take all reasonable steps to advise a victim of the details of criminal proceedings and the progress of a prosecution ○ seek a victim's views regarding modifying charges, discontinuing a prosecution, or an appeal ○ give reasons for decisions to a victim • setting up a complaints system for victims, relating to investigatory agencies, prosecuting agencies and victims' services agencies • requiring prosecuting agencies to treat victims with courtesy and respect their rights as participants in the criminal trial process • introducing intermediaries to assist certain victims to give evidence (the Intermediary Program has since been established) • implementing measures to protect victims who attend court, including: <ul style="list-style-type: none"> ○ expanding protective special measures to victims who are likely to suffer severe emotional trauma or be so intimidated or distressed that they are unable to give evidence fairly ○ tightening rules governing when a victim can be cross-examined at the committal stage ○ making the use of special measures the default position unless the victim does not wish to use them ○ requiring prosecuting agencies to inform victims about special measures and to state the victim's preferences about using such measures to the court ○ establishing separate entrances and exits, separate waiting rooms, remote witness facilities or other appropriate means to screen victims from the accused while giving evidence.
<p><i>Summary and Recommendations</i></p> <p>Royal Commission into Family Violence</p>	<p>March 2016</p>	<p>The role of the Commission was to find ways to:</p> <ul style="list-style-type: none"> • prevent family violence • improve support for victims • hold perpetrators to account. 	<p>The Royal Commission made several recommendations regarding victims:</p> <ul style="list-style-type: none"> • introducing specialist family violence courts (SFVCs) that aim to improve victims' experience of the court system • before all family violence matters are heard in the SFVCs, work be done so Magistrates' and Children's Courts that deal with a high volume of family violence-related matters can provide court users with similar safety, security, privacy and access standards • allowing family violence victims to give evidence from outside the courtroom by using remote technology • permitting the use of video and audio-recorded evidence in family violence-related criminal proceedings • DJCS to develop a framework and pilot program to deliver restorative justice options for victims of family violence (DJCS has subsequently established the Family Violence Restorative Justice Service). • Victoria Police to trial body-worn cameras to collect a digitally recorded statement from a victim at a family violence incident that victims can use as their evidence in chief.



Appendix B – Stakeholders

The following organisations provided written responses (in response to the issues paper, through the Engage Victoria website or following consultation):

- Alannah & Madeline Foundation
- Centre for Excellence in Child and Family Welfare
- Centre for Innovative Justice
- Children's Court of Victoria
- Commission for Children and Young People
- Court Network
- Domestic Violence Victoria/Domestic Violence Resource Centre
- Family Safety Victoria
- Federation of Community Legal Centres
- knowmore
- Office of Public Prosecutions
- Sexual Assault Services Victoria
- Victims of Crime Commissioner
- Victim Survivors' Advisory Council
- Victoria Legal Aid
- Victoria Police

The Department of Justice and Community Safety met directly with the following organisations:

- Aboriginal Justice Caucus
- AJA4 Women, Families and Victims Collaborative Working Group
- Magistrates' Court of Victoria
- Victim representatives of the Victims of Crime Consultative Committee
- Victoria Police
- Victim Survivors' Advisory Council
- Western Metropolitan Regional Aboriginal Justice Advisory Committee



Appendix C – Engage Victoria

The Department of Justice and Community Safety (the department) published a survey on Engage Victoria to obtain feedback directly from victims. Respondents also had the option of submitting written responses directly to the department. The department received 30 survey responses and four written submissions.

Survey data

The survey data collected supports the feedback the department received from other stakeholders and informed the recommendations that have been prioritised. Responses to each survey question are described in the tables and charts below.

For all respondents to the survey: place the following reform options in order of priority for what would be the most beneficial to victims of crime

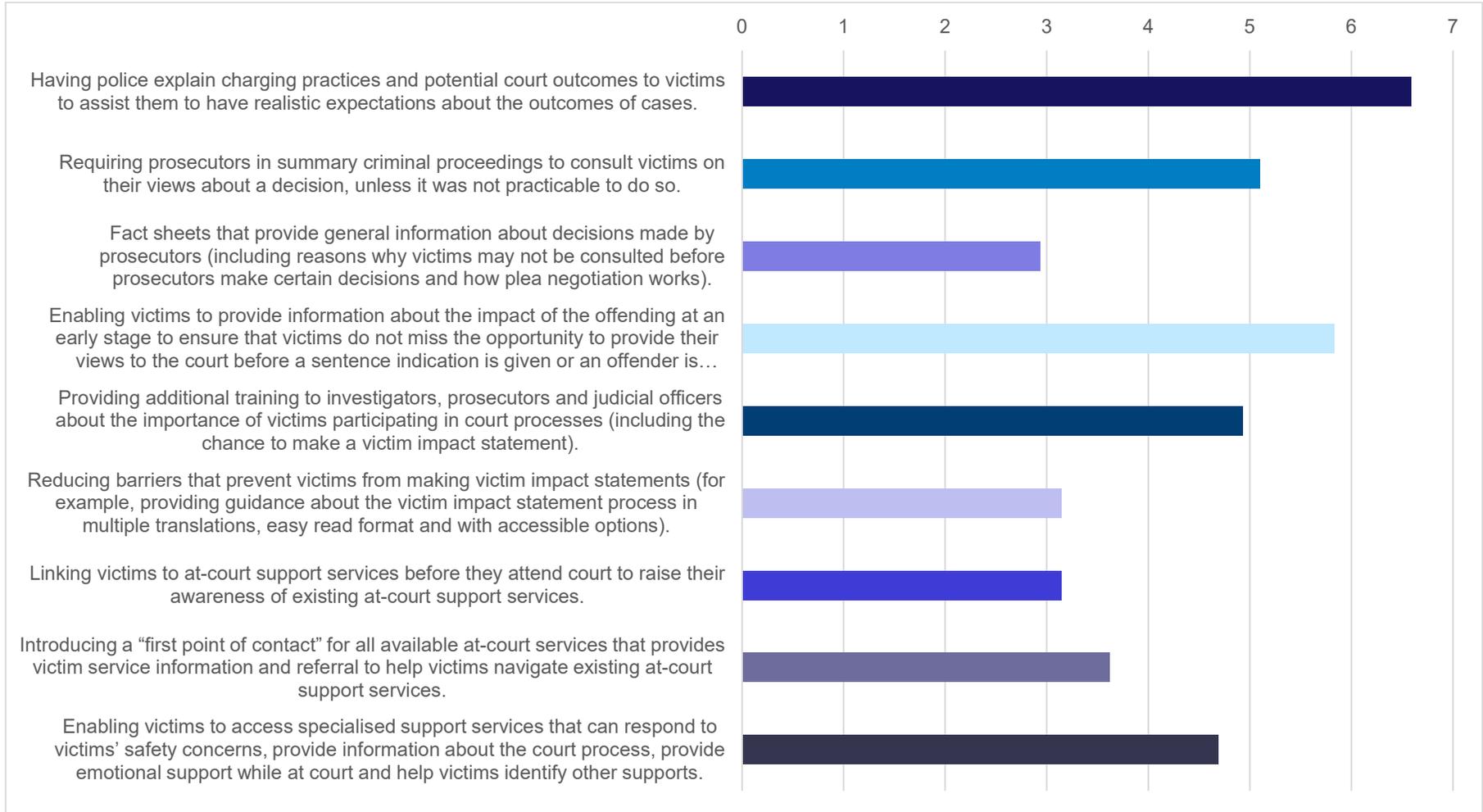
Proportion of respondents that ranked each option first

Reform option	Percentage of times ranked first
Having police explain charging practices and potential court outcomes to victims to assist them to have realistic expectations about the outcomes of cases.	42.31%
Enabling victims to provide information about the impact of the offending at an early stage to ensure that victims do not miss the opportunity to provide their views to the court before a sentence indication is given or an offender is sentenced.	19.23%
Providing additional training to investigators, prosecutors and judicial officers about the importance of victims participating in court processes (including the chance to make a victim impact statement).	16.67%
Requiring prosecutors in summary criminal proceedings to consult victims on their views about a decision, unless it was not practicable to do so.	12%
Fact sheets that provide general information about decisions made by prosecutors (including reasons why victims may not be consulted before prosecutors make certain decisions and how plea negotiation works).	10.53%
Enabling victims to access specialised support services that can respond to victims' safety concerns, provide information about the court process, provide emotional support while at court and help victims identify other supports.	8%
Linking victims to at-court support services before they attend court to raise their awareness of existing at-court support services.	4.76%
Introducing a "first point of contact" for all available at-court services that provides victim service information and referral to help victims navigate existing at-court support services.	4.17%
Reducing barriers that prevent victims from making victim impact statements (for example, providing guidance about the victim impact statement process in multiple translations, easy read format and with accessible options).	0%



Average ranking of reform options

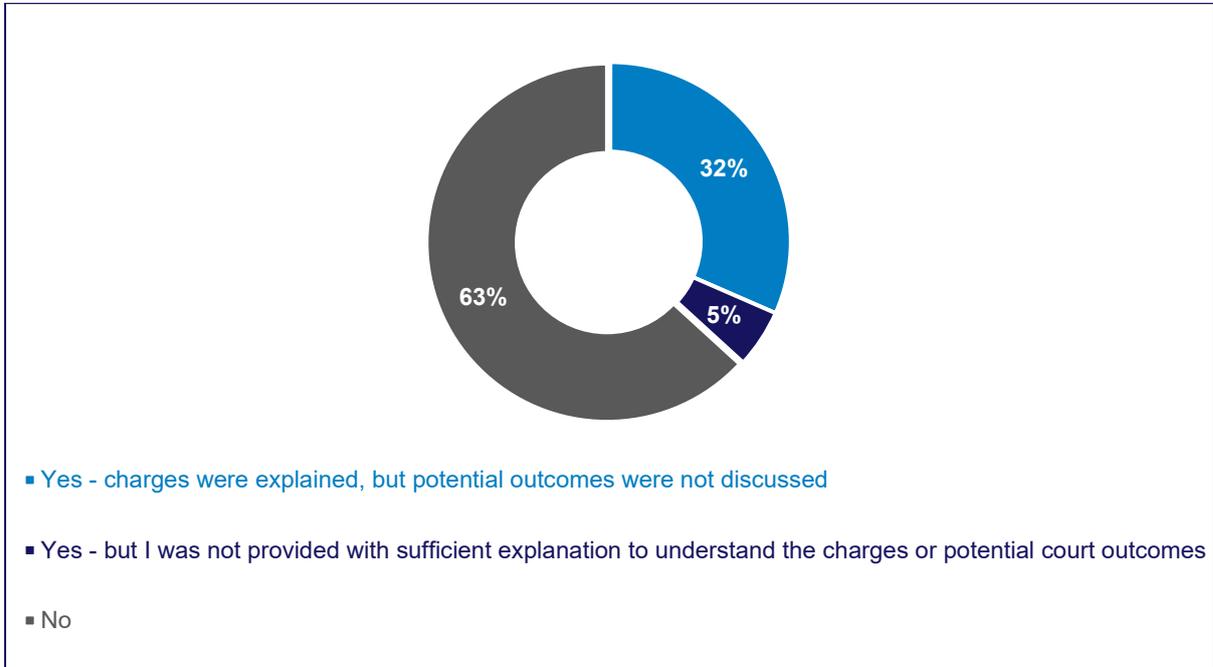
These rankings are the average ranking – reverse weighted. Where an option was ranked first it received nine points, an option ranked last received one point, and the equivalent for other places.





The following eight questions were answered only by respondents with direct experience as a victim:

Did the police or prosecutors explain what the accused person was charged with and discuss potential court outcomes with you?

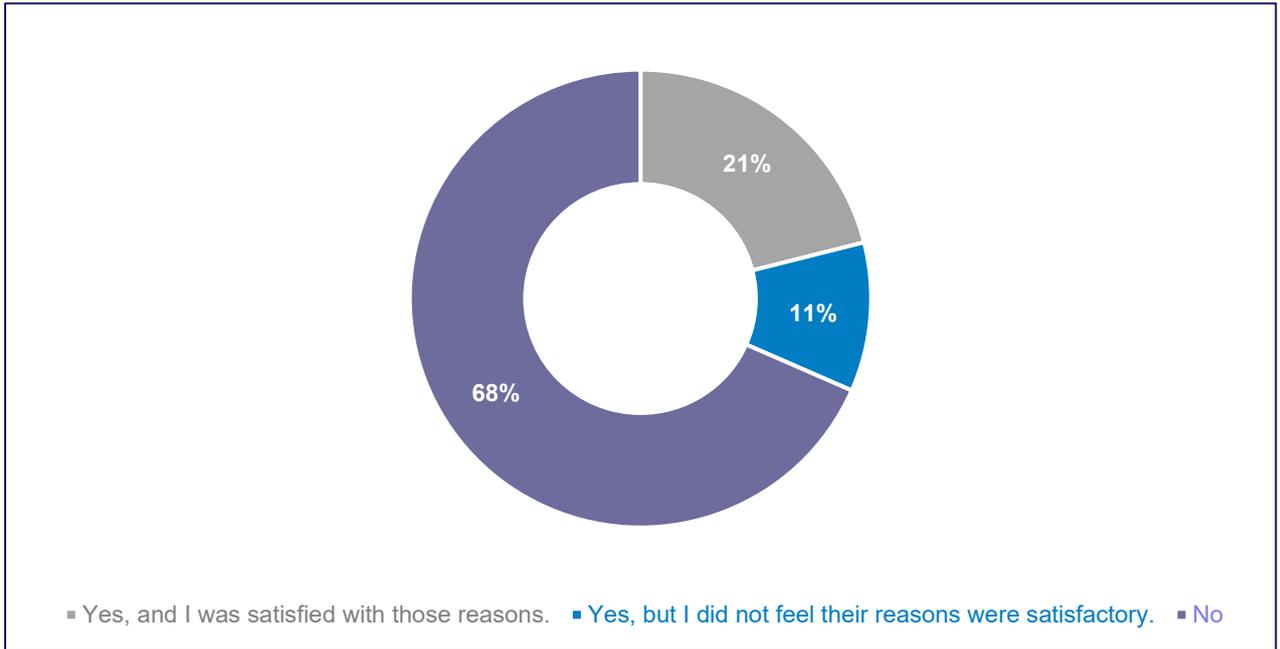


Did the prosecutors ask you for your views about particular decisions, like which charges to proceed with, or whether to accept a guilty plea to a charge?

84% of respondents answered 'no' to this question, the remainder answered 'yes'. This is consistent with current obligations for prosecutors to consult with victims.



Did the prosecutors give you reasons for why they made particular decisions?



Did you prepare a victim impact statement?

Just over one third of respondents to the survey did prepare a victim impact statement (VIS), with just over half of that group noting that it was mentioned in sentencing.

Survey answer	Percentage of survey respondents who chose this answer
I made a VIS and it was mentioned when sentencing the offender	21%
I made a VIS and the court did not appear to consider it	16%
I did not make a VIS as I did not have the opportunity to prepare one	63%

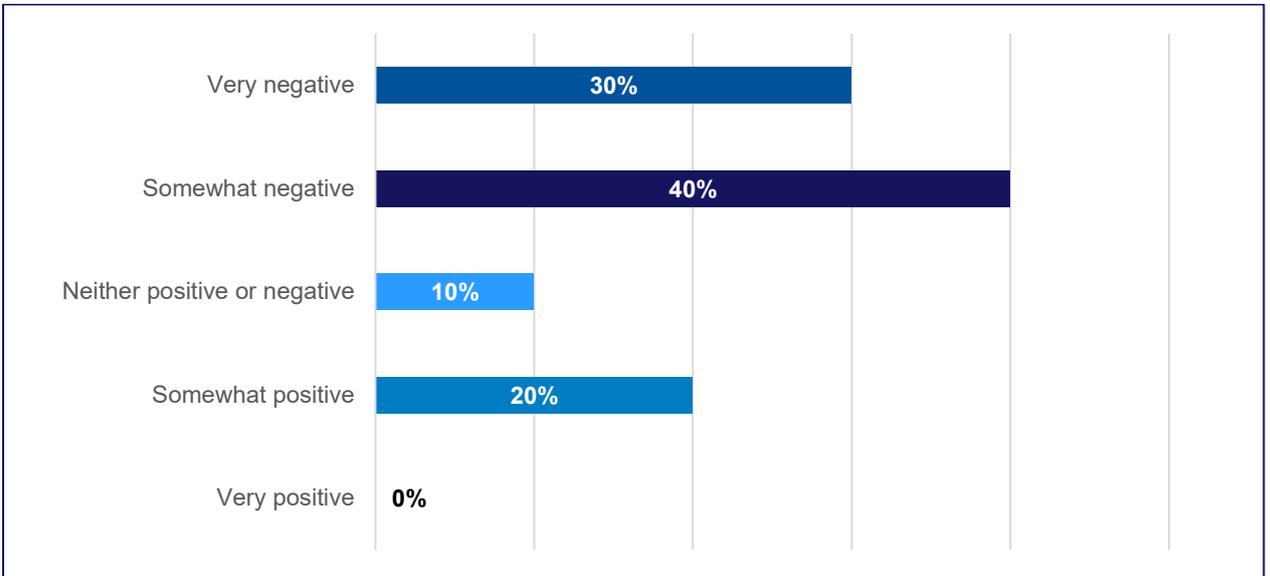
At what point did you provide your victim impact statement to the prosecutors?

Of the respondents who did make a VIS, 38% provided the statement before the offender was found guilty and 23% provided it after the offender was found guilty. The remaining respondents to this question were not sure or could not remember when their VIS was provided to the prosecutors.



How did you find the process of making a victim impact statement (including preparing the statement and if the statement was addressed in court), if you chose to do so?

A majority of respondents to this question selected either 'very negative' or 'somewhat negative'.

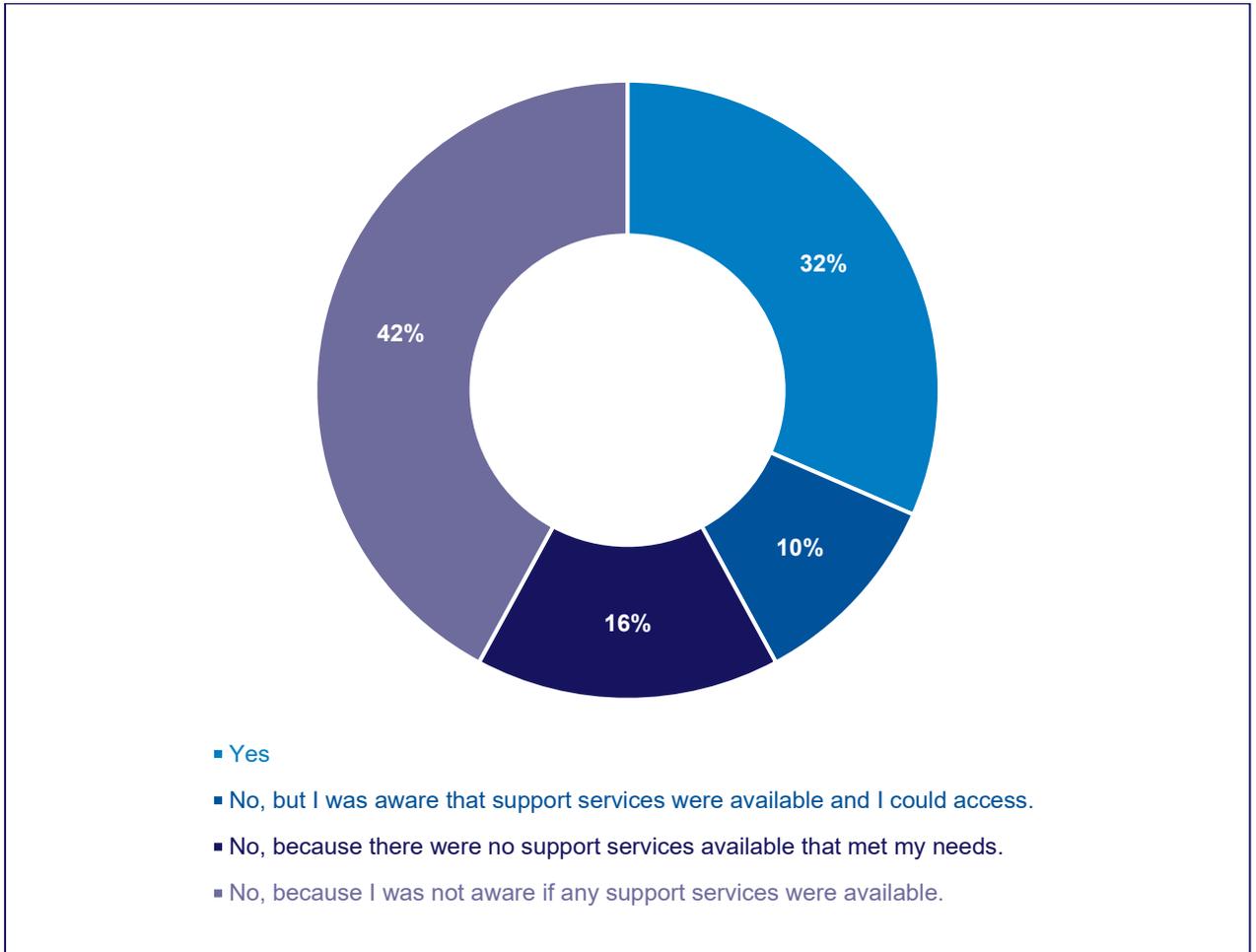


Did you provide your views to the court before a sentence indication was given?





Did you access support services at court?



A majority of respondents did not access support services as they were not aware of available services, whilst one third did access support services when they attended court.



Appendix D - Key prosecution obligations regarding victims under the *Victims' Charter Act 2006 (Vic)*

Obligations that apply to all prosecuting agencies ¹³¹	Obligations that only apply to the Office of Public Prosecutions ¹³²
<p>Treat victims with courtesy and respect, including considering victims' particular needs relating to race or Aboriginal background, sex or gender identity, cultural or linguistic diversity, sexual orientation, disability, religion or age. Prosecutors must also respect the rights and entitlements of victims as participants in criminal proceedings.</p>	<p>Take all reasonable steps to advise victims of:</p> <ul style="list-style-type: none"> • the date, time and location of any committal, trial, plea, sentencing and appeal hearing • the progress of a prosecution, including the outcome of any committal mention, committal, initial directions hearing, trial, plea, sentencing or appeal, or guilty plea.
<p>Provide victims with information about and refer victims to relevant support services and entities that provide possible entitlements and legal assistance.</p>	
<p>Take into account victims' needs and preferences in relation to how prosecutors communicate and engage with the victim.</p>	<p>Seek victims' views before making decisions to:</p> <ul style="list-style-type: none"> • substantially modify any charges • discontinue prosecution of any charges • accept a guilty plea to a lesser charge • appeal a sentence or acquittal.
<p>Provide victims with information about:</p> <ul style="list-style-type: none"> • the offences charged against the accused person • if no offence is charged, the reason for that decision • a decision to discontinue prosecution of any charges or substantially modify charges • the decisions to accept a guilty plea to a lesser charge • details about how to find out the time, date and place of a hearing • the outcome of the criminal case, including the sentence • whether an appeal is made, and the grounds and result of that appeal. 	
<p>Victims who are appearing as witnesses must be given information about:</p> <ul style="list-style-type: none"> • the trial or hearing process • the victim's role as a prosecution witness • any relevant special protections or alternative arrangements for giving evidence. 	<p>Give victims reasons for decisions to:</p> <ul style="list-style-type: none"> • substantially modify any charges • discontinue prosecution of any charges • accept a guilty plea to a lesser charge.
<p>Where the victim is making a victim impact statement (VIS), the prosecution must provide the victim with general information about the types of matters that could be found to be inadmissible in a VIS.</p>	
<p>Have a complaints system for victims to make a complaint if they believe the prosecutors have not complied with their obligations under the Victims' Charter.</p>	

¹³¹ *Victims' Charter Act 2006 (Vic)*, ss 6, 7, 7A, 7B, 9, 11 and 19A.

¹³² *Victims' Charter Act 2006*, ss 9A, 9B(1) and 9C.



Appendix E - Agencies that provide victim impact statement support

Agency	Role in supporting victims to make a victim impact statement
Victoria Police investigators	<ul style="list-style-type: none"> • Making a victim impact statement (VIS) is voluntary, however Victoria Police must notify victims of their right to make a VIS • Victoria Police can explain the process for making a VIS but if victims request additional support, they should be referred to the Victims of Crime Helpline¹³³ • victims who do not wish to provide a VIS should be advised to contact the prosecution if they change their mind about providing a VIS.
Victoria Police prosecutors	<ul style="list-style-type: none"> • Should ask about and confirm that a victim does not wish to provide a VIS • must refer victims to an appropriate support agency for help to make a VIS¹³⁴ (victims can make a complaint to the Victims of Crime Commissioner if this does not occur) • can provide general information about the types of information that may be found inadmissible and the consequences of such a finding, but are not required to advise on a particular victim's VIS.
Victims of Crime Helpline Victims Assistance Program (VAP)	<ul style="list-style-type: none"> • The Victims of Crime Helpline assists victims of crime by providing information, support and referrals (including referrals to the VAP where applicable) • the VAP provides ongoing support and case management for victims of a crime against the person, including advice and support in making a VIS¹³⁵ • the VAP offers other VIS related support to all victims (for example, an online VIS form to help victims prepare their VIS).
Child Witness Service	<ul style="list-style-type: none"> • Offers a range of services to children and young people who are witnesses, including assistance to prepare a VIS.

¹³³ Victoria Police Manual, Victim support, p 6.

¹³⁴ *Victims' Charter Act 2006 (Vic)*, s 13.

¹³⁵ In the 2019-20 financial year the Victims Assistance Program provided 5,358 victim impact statement-related support calls in response to 14,099 calls to the Victims of Crime Helpline.



Appendix F - Best practice standards for at-court support services

Appendix F outlines best practice standards for at-court support services, as referred to in Recommendation 11 of the report.

Recommendation 11

The Government should, in collaboration with victims, develop best practice standards for at-court support services to enable existing and new support services to offer victims high quality and consistent at-court support.

The document outlines stakeholder feedback on what roles and abilities at-court support services should have. The Government and victims should use these considerations to develop a best practice guide for at-court support services.

Victim support must be available before, during and after court

The review focused on victims' experience of at-court support services in summary proceedings, as opposed to support for victims before or after court. However, victim support that is available outside of court can shape victims' experience in court, and several stakeholders argued that support must be made available to victims before, during and after court. This section therefore considers what support must be available to victims before, during and after court.

Support before court

Stakeholders noted that individuals experience difficulties and structural barriers with accessing support as soon as they become victims, arguing that if a victim's first engagement and information provision was at court, many opportunities would already have been lost.¹³⁶ Victoria Police suggested that early engagement may help prevent the common occurrence of victims attending court without notifying any relevant parties, with prosecutors often only becoming aware of a victim's presence in court after a matter has proceeded.¹³⁷ Given many victims find it upsetting to enter a court building, they may also feel more comfortable and able to express their views outside of this setting.¹³⁸

The Centre for Innovative Justice (CIJ), in its *Strengthening Victoria's Victim Support System: Victim Services Review Final Report*, proposed a model in which certain groups of victims would be offered court support where relevant. That support would involve having someone who understands the court process attend court and provide information and emotional support. As part of this model, the CIJ also recommended adequate support for the victim before the court hearing to accompany the at-court support, including explaining the process, the court environment, potential interactions with the accused person, and discussing how the victim will feel if the outcome is not what they had hoped. The pre-court support would include taking the victim to court before the court hearing to walk through the court environment.¹³⁹

¹³⁶ Victoria Police, 2021, Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*.

¹³⁷ Victoria Police, 2021, Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*.

¹³⁸ Victoria Police, 2021, Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*.

¹³⁹ Centre for Innovative Justice, 2020, *Strengthening Victoria's Victim Support System: Victim Services Review Final Report*, p 128-129.



The model of the Court Support Coordinators at the Children's Court may offer further guidance on what a support service should do when it knows that a victim will attend court. In such instances, Court Support Coordinators should:

- contact the victim prior to the court date
- establish what support may be required
- determine whether there is a need for a safe entry/exit or waiting space
- explain the court process and procedures
- confirm that support will be provided on the day.¹⁴⁰

Other examples of support that can be provided by support services before court include:

- forming an understanding of victims' needs and preferences
- responding to any immediate practical and safety needs (including providing emotional support and linking victims with specialist services where required)
- assisting victims with a victim impact statement (VIS) or referring victims to appropriate agencies for help with the VIS
- providing victims with referrals to legal services.¹⁴¹

Support service workers should also recognise that at this stage victims may not be able to identify or articulate their needs or may feel overwhelmed by too much information.

Support at court

The types of at-court support services vary, particularly depending on a victim's role in a criminal proceeding. They may include individual support, or information and referral. Victims may find the following types of at-court support services useful.

At-court support services should be able to respond to victims' safety concerns

Several stakeholders highlighted the need for courts to prioritise victim safety. While improvements to court infrastructure and design are out of the review's scope, there is potential for support services to ensure victim safety. For example, support services:

- should know the court environment can be traumatising for victims and attempt to address environmental factors that add to victims' trauma (victim representatives of the Victims of Crime Consultative Committee (VOCCC) noted if environmental factors that add to victims' trauma could be addressed, then victims may be better able to respond to legal matters effectively, without feeling overwhelmed)¹⁴²
- can help with safety during and after the court hearing, including separating victims from the accused person at court and providing information about what victims can do if they encounter the accused person outside of court

¹⁴⁰ Children's Court of Victoria, 2021, Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*, [4.5].

¹⁴¹ Court Network, 2021, Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*.

¹⁴² Consultation with victim representatives of the Victims of Crime Consultative Committee, 2021.



- should attempt to ensure victims have dedicated spaces to receive support (where such spaces exist)
- in regional and rural courts, support services should ensure victims are advised of the location of safe spaces if they do exist.¹⁴³

At-court support services should provide information about the court process

At-court support services should provide victims with information and assist them to navigate the court system. As noted by the Victim Survivors' Advisory Council (VSAC), 'information must be available to victims to help them better understand proceedings. Education gives victims more choice and agency. It helps victims make informed decisions when they're at court.'¹⁴⁴

Stakeholders indicated that information about the following topics could be useful for victims:

- what to expect on the day, including:
 - general court processes (including the rights, responsibilities and entitlements of victims in relation to court processes, such as crime compensation)
 - how prosecutors make certain decisions (for example, how a plea negotiation works)
 - what happens in the courtroom (including explaining what a courtroom looks like, the roles of the magistrate and other court staff, how victims are expected to act in a courtroom, where particular people sit in the courtroom)
 - managing expectations or setting realistic expectations
- general information about the court building (including maps of court facilities and where to locate in-person assistance at court if required)
- a glossary of court language
- information about the progress of a victim's matter
- equipping victims with the right questions to ask.¹⁴⁵

In addition to providing information to victims, at-court support services should also attempt to introduce victims to the prosecutor or other relevant parties, if appropriate.

¹⁴³ Centre for Innovative Justice, 2020, *Strengthening Victoria's Victim Support System: Victim Services Review Final Report*, p 128-129; Court Network, 2021, Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*; Victims of Crime Commissioner, 2021, Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*, p 14-15.

¹⁴⁴ Victim Survivors' Advisory Council, 2021, Joint Submission to the Department of Justice and Community Safety on the Review to Improve Victims' Experience of Summary Criminal Proceedings.

¹⁴⁵ Centre for Innovative Justice, 2021, Second Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*, p 5; Consultation with victim representatives of the Victims of Crime Consultative Committee, 2021; Victim Survivors' Advisory Council, 2021, Joint Submission to the Department of Justice and Community Safety on the Review to Improve Victims' Experience of Summary Criminal Proceedings; Victoria Police, 2021, Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*.



At-court support services should provide practical and emotional support to victims while at court

At-court support services should provide emotional help to victims.¹⁴⁶ For example, the Court Support Coordinators at the Children's Court often refer court users to a Court Network volunteer to assist with providing emotional and moral support.¹⁴⁷

At-court support services should be able to meet victims outside of court, provide support while victims are waiting to give evidence and be with victims in the courtroom (including if victims appear via online court hearings).¹⁴⁸

As noted by a victim who was interviewed by the CIJ as part of its research on improving support for victims:

[Being supported at court] makes it a lot easier to deal with. I mean, you're talking to someone who understands what you're going through rather than just someone at the police [station] who deals with victims of crime but doesn't go to the courtroom and sit with you and talk with you while you're waiting for your case to be heard... [It makes you feel] safe and comfortable.¹⁴⁹

Support services should also assist victims with other practical matters, such as arranging access to interpreters or a therapy dog if needed.¹⁵⁰

At-court support services should assist victims to participate in summary proceedings

It was also suggested that support services should provide support for victims to assist them to understand and participate in summary proceedings, including:

- giving evidence
- ensuring victims know of their right to make a VIS and they have support to make one.¹⁵¹

At-court support services should help victims identify other supports

At-court support services should provide appropriate and specialist referrals relating to victims' specific needs. For example, depending on the needs identified, this may include referrals to:

- services relating to the victim's matter (such as family violence or sexual assault services)
- a cultural or ethno-specific service
- other victim support services (such as the Victims Assistance Program).¹⁵²

¹⁴⁶ Centre for Innovative Justice, 2020, *Improving Support for Victims of Crime: Key Practice Insights*, p 16; Centre for Innovative Justice, 2020, *Strengthening Victoria's Victim Support System: Victim Services Review Final Report*, p 128.

¹⁴⁷ Children's Court of Victoria, 2021, Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*, [4.5].

¹⁴⁸ Centre for Innovative Justice, 2021, Second Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*, p 5.

¹⁴⁹ Centre for Innovative Justice, 2020, *Improving Support for Victims of Crime: Key Practice Insights*, p 16.

¹⁵⁰ Centre for Innovative Justice, 2021, Second Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*, p 5; Court Network, 2021, Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*.

¹⁵¹ Centre for Innovative Justice, 2021, Second Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*, p 5; Centre for Innovative Justice, 2020, *Strengthening Victoria's Victim Support System: Victim Services Review Final Report*, p 128; Court Network, 2021, Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*; Victoria Police, 2021, Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*.

¹⁵² Centre for Innovative Justice, 2021, Second Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*, p 5; Centre for Innovative Justice, 2020, *Strengthening Victoria's Victim Support System: Victim Services Review Final Report*, p 128.



The Government should, in collaboration with victims, consider whether at-court support must be continuous

The Government should, in collaboration with victims, consider whether at-court support must be provided continually, or whether it may be best targeted to particular points in the process, which are likely to be the most distressing for the victim, such as at sentencing.¹⁵³ For example, the CIJ in its model did not envisage that support would be provided continually, but at points in the process that may be most distressing for victims.¹⁵⁴

The following issues should be considered when determining the best practice model:

- targeting support to certain points in the process, which are deemed most distressing to the victim, may vary across crime type and from victim to victim
- victims have ongoing needs that may change throughout the process and that will require ongoing support.

For example, some family violence victims may be reluctant to engage with the system due to the ongoing trauma of their experience, emotional and psychological distress, the fear of encountering the accused person or because they may be experiencing ongoing abuse from an offender while proceedings are underway.

Support after court

Support is also required after court, in addition to the at-court support on the actual day of the hearing. As noted by Witness Hope in the Legislative Council Legal and Social Issues Committee's *Inquiry into Victoria's Criminal Justice System*, 'there needs to be support before, during and after court to ensure a safe duty of care.'¹⁵⁵

Support services can provide information and support to victims immediately after the court hearing to ensure that victims are not distressed when they leave the court and understand what, if anything, will happen next. In addition to this immediate post-hearing support, further post-court support could include:

- providing debriefing and emotional support
- referring victims to an appropriate service that could assist with other issues
- reminding victims of available support structures that can be accessed again if needed.¹⁵⁶

At-court support services should adopt a trauma-informed approach

Support services should ensure they adopt trauma-informed approaches to court support and provide victims with information in a way they can understand.¹⁵⁷ As noted in the CIJ report 'many victims of crime

¹⁵³ Centre for Innovative Justice, 2020, *Strengthening Victoria's Victim Support System: Victim Services Review Final Report*, p 128-129.

¹⁵⁴ Centre for Innovative Justice, 2020, *Strengthening Victoria's Victim Support System: Victim Services Review Final Report*, p 128-129.

¹⁵⁵ Legislative Council Legal and Social Issues Committee, 24 August 2021, transcript, *Inquiry into Victoria's Criminal Justice System*, p 2.

¹⁵⁶ Court Network, 2021, Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*.

¹⁵⁷ Domestic Violence Victoria and Domestic Violence Resource Centre Victoria, 2021, Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*, p 11-12; Federation of Community Legal Centres, 2021, Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*, p 13; Victoria Legal Aid, 2021, Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*, p 4.



declined support because, at the time they were contacted, they were not able to discern what was being offered or how it matched their needs.¹⁵⁸

In the Legislative Council Legal and Social Issues Committee's inquiry, Witness Hope states in her evidence that 'the usual system for trauma-informed care is based on the four Rs: recognising how trauma affects people, recognising the signs of trauma, having a system that can respond to trauma and resisting retraumatisation.'¹⁵⁹ Any relevant findings of this inquiry should be considered in developing the best practice guidance for at-court support.

Domestic Violence Victoria (DVV) and Domestic Violence Resource Centre Victoria (DVRCV) provide an example in the family violence context, noting it can be challenging for people who have experienced violence to absorb large amounts of new information about court processes or available services at a time when they are traumatised and distressed.¹⁶⁰

Sexual Assault Services Victoria observed existing support services do not adequately recognise the difficulty and complexities for victims of sexual assault attending court, noting it is not uncommon for victims to dissociate and be overwhelmed by their trauma while giving evidence.¹⁶¹

At-court support services should provide active advice to victims

The CIJ model is based on 'actively navigating victims of crime through the criminal justice and broader service system; providing tailored information and advice; and proactively checking in to identify where victims' needs have changed'¹⁶² rather than leaving this responsibility with a victim.

This is particularly important given victims' needs change over time. As noted in the CIJ's research, several victims described periods when they felt unable to cope, with some living through periods of significant mental ill health. These victims were not actively engaged with supports and none recalled proactively seeking additional support during periods of crisis or increased need. It is important, therefore, for services to provide victims with opportunities to reconnect with supports, including by proactively checking in to see how they are doing and to adjust or put new supports in place as required.¹⁶³

DVV and DVRCV support this approach, noting that a system that places the needs of the victim at the centre has the potential to reduce the possibility for re-traumatisation and to provide victims with the comprehensive, timely and tailored assistance they require.¹⁶⁴

¹⁵⁸ Centre for Innovative Justice, 2020, *Strengthening Victoria's Victim Support System: Victim Services Review Final Report*, p 36.

¹⁵⁹ Legislative Council Legal and Social Issues Committee, 24 August 2021, transcript, *Inquiry into Victoria's Criminal Justice System*, p 2.

¹⁶⁰ Domestic Violence Victoria and Domestic Violence Resource Centre Victoria, 2021, Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*, p 11-12.

¹⁶¹ Sexual Assault Services Victoria, 2021, Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*, p 4.

¹⁶² Centre for Innovative Justice, 2020, *Strengthening Victoria's Victim Support System: Victim Services Review Final Report*, p 55.

¹⁶³ Centre for Innovative Justice, 2020, *Improving Support for Victims of Crime: Key Practice Insights*, p 19-20.

¹⁶⁴ Domestic Violence Victoria and Domestic Violence Resource Centre Victoria, 2021, Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*, p 11.



At-court support services should provide advice tailored to victims' individual needs

It has been suggested the 'one-size-fits-all' approach to the provision of support services is not sufficient to meet the unique and individual needs of victims.¹⁶⁵ At-court support services should provide tailored information and advice attentive to the particular needs or vulnerabilities a victim may have.¹⁶⁶ For example, the Commission for Children and Young People suggests any improvements relating to victim support must include a separate, tailored response for children, particularly children who have experienced trauma, to minimise the risk of re-traumatising children. It also highlights the experiences and needs of child victims are extremely diverse.¹⁶⁷

However, this consideration needs to be balanced against victims' desire to have a single point of contact they can access to identify and engage with relevant supports.¹⁶⁸ These are important factors to balance in considering any redesign of the at-court support service system.

At-court support services should be culturally appropriate

Stakeholders highlighted the acute need for culturally appropriate supports at court. For example, noting the prevalence of Aboriginal and Torres Strait Islander victims, the barriers they experience to reporting crime and the re-traumatising nature of involvement in the legal system, stakeholders proposed:

- it was important to work with Aboriginal communities and Aboriginal community-controlled organisations to improve cultural safety in summary proceedings, including interactions with support services
- support services should have Aboriginal and Torres Strait Islander identifying staff members to provide culturally safe support
- all court staff who interact with court users should be required to deal with court users in a culturally appropriate and safe manner (noting that any network of culturally-specific practitioners should not be required to carry the 'cultural load' of the court).¹⁶⁹

The CIJ commented that where an Aboriginal and Torres Strait Islander victim is supported in culturally safe and appropriate ways to participate in the court process, they are more likely to recover from the summary offence that is the subject of their current court contact. They are also more likely to engage in supports and to report any further crime victimisation in the future.¹⁷⁰

¹⁶⁵ Centre for Innovative Justice, 2020, *Strengthening Victoria's Victim Support System: Victim Services Review Final Report*, p 12-13; Domestic Violence Victoria and Domestic Violence Resource Centre Victoria, 2021, Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*, p 11; Victims of Crime Commissioner, 2021, Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*, p 11.

¹⁶⁶ Victoria Legal Aid, 2021, Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*, p 12.

¹⁶⁷ Commission for Children and Young People, 2021, Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*.

¹⁶⁸ Centre for Innovative Justice, 2020, *Strengthening Victoria's Victim Support System: Victim Services Review Final Report*, p 12-13; Victims of Crime Commissioner, 2021, Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*, p 11.

¹⁶⁹ Centre for Innovative Justice, 2021, Second Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*, p 8; knowmore, 2021, Submission to Department of Justice and Community Safety survey on Engage Victoria, 2021, p 4.

¹⁷⁰ Centre for Innovative Justice, 2021, Second Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*, p 8.



At-court support services should be easy to access and navigate

In addition to the information provision measures regarding support services outlined in Recommendation 1, at-court support services must also be easy to access and navigate in person. For example, the location of the support services must be obvious and clear for victims when they attend court buildings or online court platforms.¹⁷¹ If it is easy for victims to access to support services at court, it is more likely victims will make themselves known when attending court and be provided with an opportunity to check in, ask questions and receive information.

At-court support services should be co-designed with victims

It is important to co-design support services with victims so services can incorporate the lived experience of victims who have experienced summary proceedings. This includes victims who face additional barriers when participating in summary proceedings, as identified in section 4.3 of the report. This will ensure support services are accessible and sensitive to all victims.¹⁷²

The Government should, in collaboration with victims, consider who is best placed to provide at-court support services

In developing best practice standards, it is also important to consider who is best placed to provide at-court support services. In this respect, stakeholders' opinions differed. Given this, the Government should, in collaboration with victims, consult further to determine who should perform the role. The following considerations may assist determining who should perform the role.

1. **The capacity of generalist court support services is unclear.** It is unclear whether generalist court support services are best placed to provide specialised victim support. These support services assist all court users, including accused persons and other witnesses. They may not specialise in offering victim support, and the quality, consistency, and depth of knowledge needed to adequately assist victims with relevant processes is variable. Some services, like Court Network, may support both victims and accused persons, which victims may find confusing.¹⁷³
2. **Supports for victims may need to be independent.** Some stakeholders argued it was paramount that support for victims be independent. The main point of contact for a victim should not be the police, prosecutors or the court, but someone outside the criminal justice system. The police, prosecutors and the court may not be appropriately trained to assist victims (including providing trauma-informed responses to victims), and they may not have the time and resources to assist a victim to ensure their needs are being met or they understand the information they are being provided.¹⁷⁴ Stakeholders also noted victims who may have a complicated relationship with police due to historical trauma, institutional issues or prior interaction (for example, victims who have been offenders) may not feel comfortable interacting with police.¹⁷⁵

¹⁷¹ Federation of Community Legal Centres, 2021, Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*, p 14; Victoria Legal Aid, 2021, Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*, p 4.

¹⁷² Family Safety Victoria, 2021, Submission to the Department of Justice and Community Safety on the Review to Improve Victims' Experience of Summary Criminal Proceedings; Victim Survivors' Advisory Council, 2021, Joint Submission to the Department of Justice and Community Safety on the Review to Improve Victims' Experience of Summary Criminal Proceedings; Victoria Legal Aid, 2021, Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*, p 4.

¹⁷³ Victoria Legal Aid, 2021, Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*, p 11.

¹⁷⁴ Federation of Community Legal Centres, 2021, Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*, p 13.

¹⁷⁵ Victoria Legal Aid, 2021, Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*, p 11.



3. **Support service workers with lived experience may be beneficial.** Several stakeholders noted it would be beneficial for support service workers to have lived experience as a victim or lived experience of summary proceedings as a victim. This would likely help support services to build rapport with victims and encourage early access to victim supports.¹⁷⁶ VSAC noted that a peer worker can help alleviate stress and provide a feeling of safety and wellbeing.¹⁷⁷ Victim representatives of the VOCCC reflected that peer-led support would help engender trust with victims, because it involved engagement with a peer who has experience of going through criminal proceedings.¹⁷⁸ Stakeholders also indicated it could be beneficial for victims who face multiple barriers when participating in summary proceedings to be supported by people with lived experience who have faced similar barriers so they can provide insight into their own experience as a victim who has been through criminal proceedings and faced such barriers.¹⁷⁹
4. **Support service workers may need to have specialised experience.** Having workers who have worked within the justice system could be beneficial as they can speak from their expertise in the system. This may be a social worker, mental health nurse, or a former police officer (noting the arguments outlined above about the benefits of an independent support service worker).
5. **Victims may want to be supported by someone they have a pre-existing relationship with.** There can be benefits of allowing victims to be accompanied in court by support services with whom they already have a trusted relationship. Sexual Assault Services Victoria noted victims of sexual crimes often rely on a trusted therapeutic alliance with a counsellor to develop strategies to reduce re-traumatising experiences in court. They suggested victims of sexual offences should be entitled to ongoing support from trained specialist workers throughout the legal process, such as sexual assault counsellor advocates.¹⁸⁰ Similarly, the Centre for Excellence in Child and Family Welfare noted it can take time for a service to build trust with a child and their family, and children and families who have an existing relationship with family support services outside of court should be able to have that service join them if a child victim gives evidence at court.¹⁸¹
6. **Support may be able to be provided by a range of services.** In the model put forward by the CIJ, support could be provided by a range of services, such as Court Network, or informal supports, such as family or friends.¹⁸² Whether this is an option in all instances needs to be further considered. For example, a family member providing support may not always be the safest option for victims, in particular where there is, or has been family violence.

¹⁷⁶ Victim Survivors' Advisory Council, 2021, Joint Submission to the Department of Justice and Community Safety on the Review to Improve Victims' Experience of Summary Criminal Proceedings.

¹⁷⁷ Victim Survivors' Advisory Council, 2021, Joint Submission to the Department of Justice and Community Safety on the Review to Improve Victims' Experience of Summary Criminal Proceedings.

¹⁷⁸ Consultation with victim representatives of the Victims of Crime Consultative Committee, 2021.

¹⁷⁹ Victim Survivors' Advisory Council, 2021, Joint Submission to the Department of Justice and Community Safety on the Review to Improve Victims' Experience of Summary Criminal Proceedings.

¹⁸⁰ Sexual Assault Services Victoria, 2021, Submission to Department of Justice and Community Safety *Issues Paper: Improving Victims' Experience of Summary Criminal Proceedings*, p 4.

¹⁸¹ The Centre for Excellence in Child and Family Welfare, 2021, Submission to Department of Justice and Community Safety survey on Engage Victoria, p 3.

¹⁸² Centre for Innovative Justice, 2020, *Strengthening Victoria's Victim Support System: Victim Services Review Final Report*, p 128-129.