

Victims of Crime Commissioner

Annual Report 2018-2019

Office of the Victims of Crime Commissioner

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Letter to the Attorney-General

The Hon. Jill Hennessy MP
Attorney-General

Dear Attorney-General

Victims of Crime Commissioner: Annual Report 2018-19

In accordance with the *Victims of Crime Commissioner Act 2015* (the Act), I am pleased to present to you the Annual Report of the Victims of Crime Commissioner for the financial year ending 30 June 2019 for tabling in Parliament.

This report documents the performance the functions of the Victims of Crime Commissioner and the exercise of the Commissioner's powers under the Act.

Yours sincerely



Fiona McCormack
Victims of Crime Commissioner

1 Message from the Victims of Crime Commissioner



It is a privilege to present my first annual report as Victims of Crime Commissioner.

This report covers the period of 1 July 2018 to 30 June 2019. As I commenced in the role on 8 July 2019, this report sets out the achievements of the previous Victims of Crime Commissioner, Mr Greg Davies APM.

As Victoria's first Victims of Crime Commissioner, Greg worked to establish the office and the role during his four-year tenure which concluded in December 2018. Greg was passionate about advocating on behalf of victims and regularly met with government, justice system stakeholders and made media appearances to highlight systemic issues. During his term, the Commissioner also made a number of submissions to government and parliamentary inquiries and held a Victims Awareness Day at the Melbourne Town Hall on 25 October 2017. On behalf of victims of crime in Victoria, I would like to thank Greg for all his efforts and congratulate him on his many achievements.

It is an honour to be invested with the responsibility of advocating on behalf of victims of crime. This is a group of Victorians whose lives have been forever altered as a result of other people's actions and, at a time of shock and grief, are depending upon our system in a myriad of ways. I am conscious that many victims of crime have experienced this system as complex, alienating and traumatic. I will therefore be focussed on identifying the ways in which processes can be enhanced to provide a more respectful experience and reduce the possibility of further traumatisation, without compromising the integrity of the system. I am conscious of my responsibility to advocate on behalf of all victims of crime and I am interested in the needs of victims who face particular and additional barriers to accessing the justice system. I hope to learn more about the experiences of Aboriginal and Torres Strait Islander people, Lesbian, Gay, Bisexual, Trans and gender diverse, Intersex, Queer and questioning people, people from culturally and linguistically diverse communities, people with disabilities, children, older Victorians, people with mental health conditions, people living in regional and remote communities and others.

Of course, I remain committed to advocating on behalf of women and children who have experienced violence, including family violence and sexual assault. My predecessor, Greg Davies, has urged me to continue the focus he gave this issue while in office simply because of the rates of women and children who are murdered each year and who are living their lives in terror. Unfortunately, this is a crisis. It is a public safety emergency. Indeed, the Premier, the Honourable Daniel Andrews MP, has named family violence as the number one law and order issue across Australia today.

I will be spending the next year preparing the office for the new powers that come into effect in November this year, including the responsibility of investigating complaints made about police, prosecution, investigatory and victim's service agencies in respect of their compliance with the *Victim's Charter Act 2006*. I am also keen to immerse myself in the justice system before consulting with victims as a means of better understanding systemic issues and exploring possible solutions.

I look forward to learning from Victorians who have been victims of crime, to discovering how systems and services can be improved to better support them and to advocating on their behalf. I look forward to giving a voice to victims.



Fiona McCormack

Victims of Crime Commissioner

2 Overview of the Office of the Victims of Crime Commissioner

The role of the Victims of Crime Commissioner (the Commissioner) is established in the *Victims of Crime Commissioner Act 2015* (the Act). The primary aims of the Act are to promote the recognition of victims of crime in the justice system, provide for the representation of the concerns of victims of crime in the decision-making of government and to promote the recognition of victims of crime.

2.1 Our Strategic Plan 2018-19

Our Strategic Plan is aligned to the principles and objectives contained in the Act and the *Victims Charter Act 2006* (Vic) and includes:

Our Vision

Victims of crime are a central focus in regard to decisions of government relating to the criminal justice system and the provision of government services.

Our Mission

To improve experiences of victims of crime in their dealings with victims' services and the criminal justice system.

Our Guiding Principles

- *promote the respectful treatment of all victims of crime by all investigatory agencies, prosecuting authorities, and victim's service agencies;*
- *promote the recognition of victims of crime in the justice system;*
- *provide for the representation of victims of crime in the decision making of government; and*
- *promote the inclusion and participation of victims of crime in the justice system.*

Our Strategic Objective

To effectively exercise the Commissioner's prescribed functions and powers.

2.2 The Act: functions and powers

The Act received Royal Assent on 27 October 2015 and commenced operation on 3 February 2016. The Act explains the functions of the Commissioner as:

- advocating for the recognition, inclusion, participation and respect of victims of crime by government departments, bodies responsible for conducting public prosecutions and Victoria Police;
- carrying out inquiries on systemic victim of crime matters;
- reporting to the Attorney-General on any systemic victim of crime matter; and
- providing advice to the Attorney-General and government departments and agencies regarding improvements to the justice system to meet the needs of victims of crime.

The Act allows for the exercise of broad powers, permitting the Commissioner to carry out inquiries into systemic victim of crime matters on the Commissioner's own motion or at the request of any person.

In short, the Commissioner may inquire into and report on systemic issues relating to victims of violent crime that involve:

- the justice system;
- a government department;
- a prosecuting agency;
- Victoria Police;
- a state-funded agency that supports victims of crime.

The Act also provides the Commissioner with the powers necessary or convenient to perform the abovementioned functions including:

- requesting assistance from the Department of Justice and Community Safety, the Chief Commissioner of Police and the Director of Public Prosecutions; and
- requesting the Secretary to the Department of Justice and Community Safety, the Chief Commissioner of Police and the Director of Public Prosecutions to provide access to relevant records to enable her to carry out inquiries and or report on systemic issues.

2.2.1 What is a systemic victim of crime matter?

The Act makes numerous references to “**systemic victim of crime matters**,” however it does not provide a definition of the term. In the absence of a legislative definition, the Office of the Victims of Crime Commissioner has adopted the following definition of a *systemic victim of crime matter*:

Any issue/s identified to be a problem within a government department, victim’s service agency or body that is likely to be ongoing and affect many victims of crime.

The above definition was purposely crafted because it is easily understood and based on best practice derived from the Victorian Ombudsman’s: *Good Practice Guide to Complaint Handling for Victorian Public Sector Agencies*.

The subject of the majority of enquiries and/or complaints made to this Office in the 2018-2019 year was Victoria Police, followed by the Victims of Crime Assistance Tribunal (VOCAT).

The most common issue for Victoria Police was communication.

For VOCAT, the most common issues were:

- 1) the length of time it takes for applications to be assessed;*
- 2) difficulties maintaining regular contact with case solicitors; and*
- 3) victims’ lack of understanding of VOCAT processes.*

The Commissioner was able to assist victims with most of these issues by referring them to the correct person or by clarifying the process for the victim or the organisation.

2.2.2 Power to refer to other agencies

To avoid unnecessary duplication of inquiries, the Commissioner may also refer relevant matters to other authorities or investigative bodies, including the:

- Independent Broad-based Anti-corruption Commission (IBAC);
- Director of Public Prosecutions;
- Chief Commissioner of Police;
- Ombudsman.

The 2018-2019 financial year saw the Commissioner’s Office refer matters to relevant authorities, including the Victoria Police Conduct Unit.

2.2.3 Limitations on the Commissioner's powers

The Act also places limitations on the Commissioner's powers, prohibiting the Commissioner from prejudicing legal proceedings or any criminal investigations. This preserves the independence of relevant criminal justice agencies including courts and Victoria Police.

2.3 The Victims of Crime Consultative Committee

The Act also establishes the Victims of Crime Consultative Committee (the Committee). The primary function of the Committee is to provide an opportunity for victims of crime, criminal justice agencies and victim service agencies to meet and discuss ways to improve policies, practices and service delivery for victims of crime.

The Committee is not a part of the structure of the Office of the Victims of Crime Commissioner. However, the Act specifically requires the Commissioner to be a member of the Committee, which is also made up of a Chairperson and representatives of the judiciary, the Office of Public Prosecutions, the Adult Parole Board, Victoria Police and victim's service agencies. Most importantly, there are seven victims' representatives on the Committee who represent the interests of victims of crime. These representatives are appointed as members of the Committee for two years.

Additional members may be added to the Victims of Crime Consultative Committee by the Attorney-General (s.41(1)).

3 Operations

3.1 Reporting

3.1.1 Explaining our reporting

To properly monitor and report on the issues raised by all those contacting the Office and to comply with annual reporting obligations, appropriate reporting areas that relate to the Commissioner's prescribed functions and powers were identified.

The two primary reporting areas are:

- advocacy functions; and
- operations of the Office.

3.2 Advocacy Functions

Reporting on the Office's advocacy functions includes:

- **Media activity** - including interviews and representations made to the media on behalf of victims of crime;
- **Submissions** - including submissions to bodies inquiring into victim related issues;
- **Stakeholder engagement** - including public events, speaking engagements and meetings that the Commissioner attended or participated in.

3.3 Operations of the Office

Reporting on the operations of the Office includes reporting against:

3.3.1 The method of contact

This includes contacts made to our enquiries line, emailed enquiries, letters or direct contacts made to the Commissioner.

3.3.2 The nature of the contact

For reporting purposes, the nature of contacts made to the Commissioner's Office are divided into three categories:

- **Enquiries:** considered to be a contact made by a person and or agency seeking information in relation to a victim related service or issue.
- **Complaints:** considered to be a contact made by a complainant who expresses dissatisfaction with an action or service (or lack thereof) provided (or not) by an agency that may not be systemic (*i.e. the complaint does not apply to multiple cases or is unlikely to be ongoing*).
- **Systemic victim of crime matter:** considered to be a complaint made by a person or agency about an issue/s identified to be a problem within a government department, victim's service or agency that is likely to be ongoing and affect many victims of crime.
- **Request:** Generally, a request for a meeting with the Commissioner from an individual, organisation or media outlet.
- **Comment:** Contact from the public, victim(s) or an organisation commenting on a current affair or event.

3.3.3 Type of issues –

The types of issues reported to the Office have been divided into five categories:

- **Workforce and staff related issues** - issues of this type relate to specific problems where staff of a government department or victim service agency may have failed to meet acceptable standards, including the principles provided for in the Charter.
- **Policy and procedure** - issues of this type relate to the reporting of problems that may be negatively or adversely impacted by policies, practices and services of a government department or an agency that delivers victims services.
- **Service coordination issue** - issues of this type relate to the identification of problems or inefficiencies within or between agencies that deliver victim support services.
- **Other** - issues that may not fit within the above categories. These issues are monitored by the Office and any common trends are identified with a view to including regularly occurring problems as standalone issues/categories for the purpose of ongoing reporting.
- **Other (Media related)** - request for media related information.

3.3.4 Case Study* – Victim’s Register

* All names included in this case study have been changed.

When someone becomes a victim of crime, they are often overwhelmed by emotion, confusion and information. Because of this, many victims do not act to enforce their rights or entitlements, despite being advised of them. One of these entitlements is the right to be included on the Victim’s Register.

Where an offender is sentenced to a term of imprisonment, the victim of that offender may apply to be included on the Victim’s Register. If included on the Victim’s Register, the victim will be provided with certain information relating to the offender, such as if the offender has applied for parole. The victim is provided with the opportunity to make submissions to the Adult Parole Board about the offender’s parole conditions and will be made aware if the offender is granted parole.

In addition, if an offender receives compensation as a result of sustaining injuries in prison, a registered victim is notified of the compensation payment. The compensation payment is held in trust for a period of 12 months to allow the victim to consider whether they wish to commence civil proceedings against the offender.

In March 2019, the VOCC was contacted by Sue. In 2012, Sue’s close friend, Simon, was murdered by a stranger. The offender was subsequently sentenced to imprisonment. At the time of his death, Simon and Sue were tourists from overseas and were travelling around Australia. After Simon’s death, Sue returned to her homeland.

An article appeared in Sue’s local newspaper in March 2019, detailing that the person who had killed Simon had received a compensation payment as a result of an assault in prison. Sue contacted the VOCC to see what action, if any she could take.

The VOCC advised Sue that she may be able to apply for inclusion on the Victim’s Register and sent her the application form.

3.3.5 The subject of the contact

The Office also records and identifies individual agencies and subjects that may be the reason for a contact to the Office. (Note: not all contacts made to the Office are made in the context of complaints. Many contacts are made in the context of seeking information about a service or clarification about the role of a service).

3.3.6 Resolutions of enquiries, complaints and systemic matters

This involves the Office reporting on the most common ways a complaint/contact may be resolved. The most common categories of resolution are:

- **Issue noted for future monitoring:** This includes an issue that is beyond the scope and powers of the Commissioner but may be raised regularly by complainants/victims of crime as an issue (e.g. *complaints relating to a perceived inadequate sentencing of accused persons in criminal proceedings*).
- **Information provision:** This may involve providing the complainant with information that may resolve their complaint/query.
- **Referred to support service:** This outcome involves providing the complainant with a referral to another support service (e.g. *a complainant/victim of crime maybe referred to the Victims of Crime Helpline*).
- **Explain or clarify original service:** This outcome may involve properly explaining the service that is the subject of a complaint in order to provide the complainant with a greater understanding of the role of the service provider and/or the limitations of the relevant service.
- **Refer to other investigative body:** This outcome relates to complaints that may have been either formally or informally referred to another investigative body (e.g. *ss 24, 26 and 27 of the Act empowers the Commissioner to liaise with and refer matters to other investigative bodies where appropriate*).
- **Issue resolved:** This is an outcome where the Office has been able to assist the complainant to resolve their issue.
- **Investigated with relevant agency and resolved:** These are issues or complaints which, following contact by the Office with the relevant agency, have been resolved
- **Pending or further investigation:** This outcome relates to complaints or queries that may require further investigation or a response that requires further information from a relevant government agency or victim service provider.

3.3.7 Exercise of legislative powers

The Office also records formal requests made by the Commissioner for access to records (*pursuant to section 18, 19 and 20 of the Act*) and any formal reports on systemic issues made by the Commissioner to the Attorney-General (*pursuant to section 25 of the Act*).

3.3.8 Expediting complaints or issues raised by victims of crime

Many issues raised with the Office border on being systemic. In almost all cases the victim has been subjected to apparently unnecessary delays. That being the case, it is not necessary to begin a formal inquiry. In most instances contact with senior staff from the agency concerned has answered victims' queries and modified procedures that caused the delay.

3.3.9 Case Study* – Referral to a Legal Service

* All names included in this case study have been changed.

Nicole is a family violence victim survivor. She obtained an indefinite family violence intervention order against her ex-partner who had been convicted of breaching the order on at least three occasions. Her ex-partner had previously tried to obtain an intervention order against her on two occasions but failed each time. Nicole contacted the VOCC to express her frustration that her ex-partner had again filed paperwork to obtain an intervention order against her. She said her ex-partner's ability to get an order listed at court was another form of abuse and that she experienced increasing anxiety at each court date. She indicated that she was due to attend court again in a few days' time and was very concerned for her safety at court. In addition, she said that she was unable to afford her own legal representation.

This Office referred Nicole to a legal service for assistance. The legal service provided Nicole with advice and sought permission from the court to have Nicole wait at their offices, which were some distance away from the court building. The court allowed this to occur. Nicole found waiting in a separate building made her feel less anxious and increased her sense of safety. She found it empowering and, because she was less anxious, was able to provide her history and instructions to the legal representative more clearly.

The legal service provided Nicole with advice about her options if future applications were made by her ex-partner.

4 The Year in Review

4.1 Advocacy functions

4.1.1 Media Activity

The Commissioner performs a critical function of advocating for the interests and needs of victims in a public context. The adverse impacts and circumstances faced by victims of crime often means they are not able to publicly express their concerns or issues.

The Commissioner supports victims of crime by acting as a voice to articulate their collective concerns and issues to the media and other public forums, in the belief that victims' issues will become more broadly known and understood.

Between 1 July 2018 and 31 December 2019:

- the "Victims of Crime Enquiries" email address received eight requests for media comment, apart from those requests made directly to the Commissioner.
- the Commissioner has been mentioned or interviewed in the media on 88 individual occasions.
- the average estimated audience per media activity was 89,394 people.
- the average monthly audience reach of the Commissioner's representations was 1.3 million people per month.
- the estimated total cumulative audience reach of media activity involving the Commissioner (from 1 July 2018 to 31 December 2018) was 7.8 million people.¹

¹ Data for media activity is extrapolated from media alerts taken from Mediaportal.com. There is no audience data available for social media posts.

Table 1: The Commissioner's media activity from 1 July 2018 to 31 December 2018² showing estimated audience per month



² There was no activity recorded post 31 December 2018 due to the resignation of the former Commissioner.

5 Submissions, Consultations and Reviews

5.1.1 Submissions

There were no formal submissions made by the Victims of Crime Commissioner in financial year 2018-19.

5.1.2 Consultations

The Judicial College of Victoria sought and received feedback from the Office of the Victims of Crime Commissioner regarding the production of their guidance notes for judicial Officers dealing with victims of crime in the courtroom.

6 Outcomes of previous submissions/consultations

6.1 Review of the Victims of Crime Assistance Act 1996 (Vic)

The Victorian Law Reform Commission (VLRC) *Review of the Victims of Crime Assistance Act 1996* was tabled in the Victorian Parliament on 19 September 2018. The previous Commissioner provided a submission to the VLRC on this reference in November 2017. The Commissioner recommended, among other things, that the Victims of Crime Assistance Tribunal be abolished and replaced with an administrative model, similar to that implemented in NSW and the ACT.

The VLRC report contained 100 recommendations, including that:

- *a new state-funded financial assistance scheme be established, led by an independent and dedicated decision maker whose powers and functions are prescribed in legislation; and*
- *the functions of Victoria's Victims of Crime Commissioner be expanded to include the functions and powers necessary to administer the new scheme.*

All of the VLRC's recommendations were accepted in principle by the Government.

6.2 Victims and Other Legislation Amendment Bill 2018

In November 2016, the VLRC report titled *The Role of Victims of Crime in the Criminal Trial Process* was tabled in Parliament. The report contained a total of 51 recommendations aimed at improving the experiences of victims as they progress through the criminal trial process.

In response to several recommendations from this report, the *Victims and Other Legislation Amendment Act 2018* (the Act) was passed and as a result, a further 5 principles were added to the Victims' Charter.

Under the Act, the powers of the Victims of Crime Commissioner will be expanded to ensure that investigating, prosecuting and victims support agencies comply with the Victims' Charter principles. When the new powers commence, victims who are dissatisfied with the outcome of a formal complaint they have made to a relevant agency, in relation to a breach of a Victims' Charter principle, will be able to request the VOCC review and investigate that complaint.

After investigating a complaint, the Commissioner may recommend to the agency that it take any of the following actions:

- a) an apology, explanation or facilitated meeting;
- b) additional training;
- c) a change of policy;
- d) the provision of information.

The Commissioner will also monitor and report to the Parliament on agencies' compliance with their obligations under the Victims Charter.

These expanded powers will come into effect on 4 November 2019.

7 Stakeholder engagement: public events, speaking engagements and meetings

As a central point of contact for all victims of crime, the Commissioner is frequently called upon to attend and speak at forums and conferences to represent the views of the victims of crime.

In the 2018-19 financial year the former Commissioner attended and presented on issues relating to victims of crime at numerous forums and events including:

- Melbourne Rotary Club – Guest Speaker – “Victims of Crime Issues”.
- 3AW – Program on Family Violence and violence against women.
- Federal Government Joint Standing Committee on Migration (Deportation Order appeals to Commonwealth Administrative Appeals Tribunal).
- St John’s Anglican Church, Ballarat – Guest Speaker regarding Victims of Crime issues.
- Remembrance function for 20th anniversary of Silk-Miller murders; St Kilda Police Station.
- ABC Southbank studio – interview with Ben Knight regarding Victims issues/sentencing and prison crowding.
- National Apology to Victims of Child Abuse.

In addition to the above events, the former Commissioner and/or a representative of his Office met with various organisations and/or individuals to address issues relating to victims of crime including:

- The Hon. Martin Pakula MP, Attorney-General.
- Government departments (including representatives from the then-Department of Justice and Regulation).
- Victims of Crime Consultative Committee.
- Tim Cartwright, Family Violence Implementation Monitor.
- Graham Ashton, Chief Commissioner of Victoria Police, and Robert Hill, Assistant Commissioner, regarding assisting retired police officers who are victims of crime.

- Tom Dalton, Chief Executive Officer, Forensicare, regarding complaints about supervised and unsupervised leave from Thomas Embling of serious violent offenders.
- Caitlin Makin, Auditor General’s Office, regarding audit planning on victims related issues.
- Detective Inspector Tim Day from the Homicide Squad, Victoria Police regarding victims’ issues.
- Victims Services Coordination Network (including representatives from the Victims Support Agency, Court Network, the OPP Witness Assistance Service, VOCAT and Victoria Police).
- The Judicial College of Victoria regarding guidance notes for judicial officers.
- Sentencing Advisory Council Stakeholder Briefing on Restitution and Compensation Orders.

7.1 Reporting on the Operations of the Office

7.1.1 The method of contact

During this reporting period the Office received 59 contacts from various stakeholders and victims of crime. This is 8 fewer than the previous financial year.

Significant growth in contacts is anticipated, as public awareness increases, and the Commissioner’s increased investigative powers commence in November 2019.

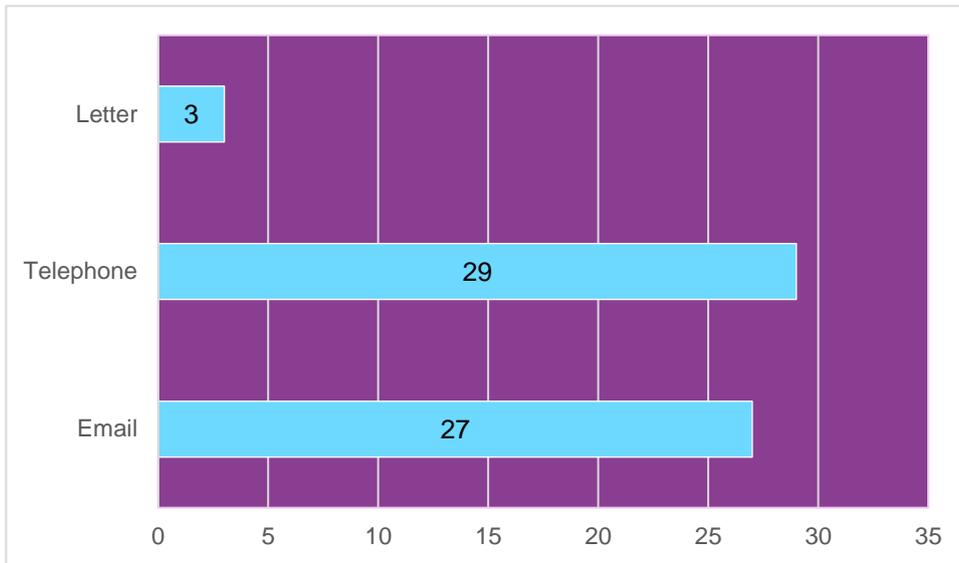
Table 2: *Number of contacts: Year-on-year comparison*



The primary pathways to contact the Office are via our email and telephone enquiry services.

The graph below provides a breakdown of the various methods by which the Office was contacted:

Table 3: *Methods of contact*

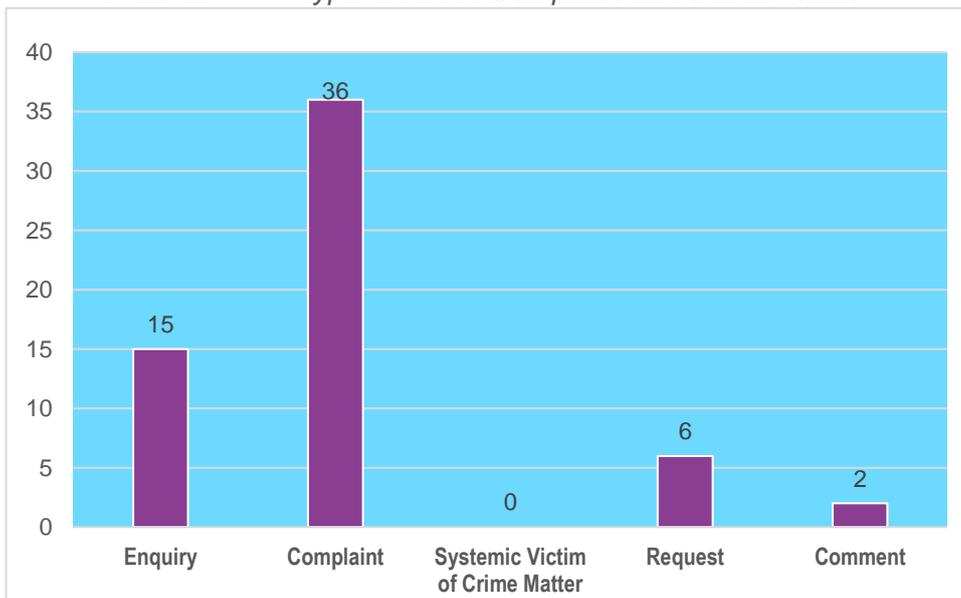


7.1.2 Nature of contact made to the Office

The nature of contacts made to the Office has been divided into categories including: **enquiries, complaints, systemic victims of crime matters, comments and requests** (refer 3.3.2 for definitions).

The graph below provides a breakdown of the types of contacts made to the Office.

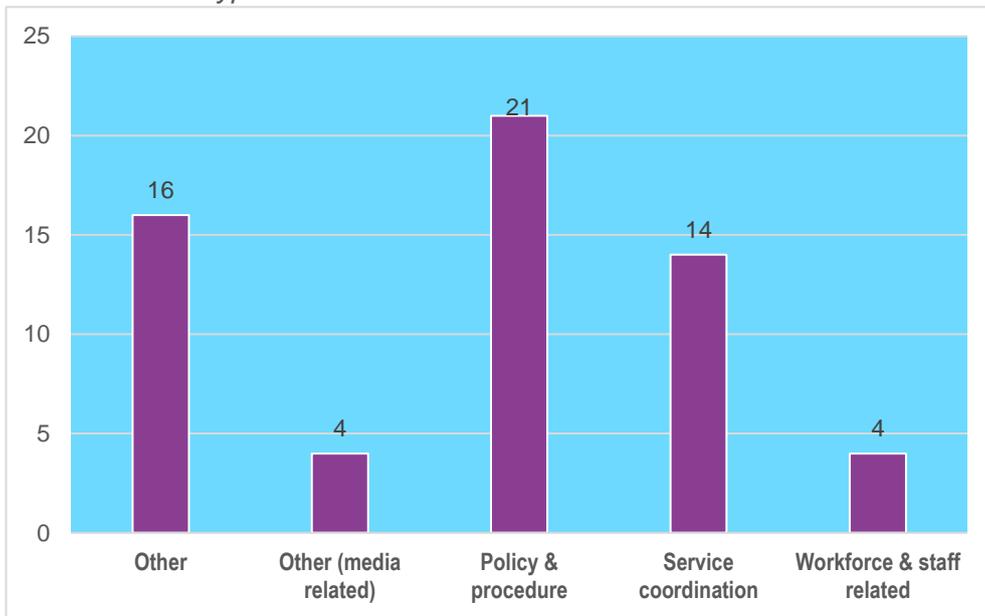
Table 4: *Type of contacts/enquiries made to the Office*



Types of issues

The types of issues reported to the Office have been divided into five categories: **workforce and staff related issues, policy and procedure, service coordination, other and other (media related)** (refer 3.3.3 for definitions).

Table 5: *Types of issues raised*

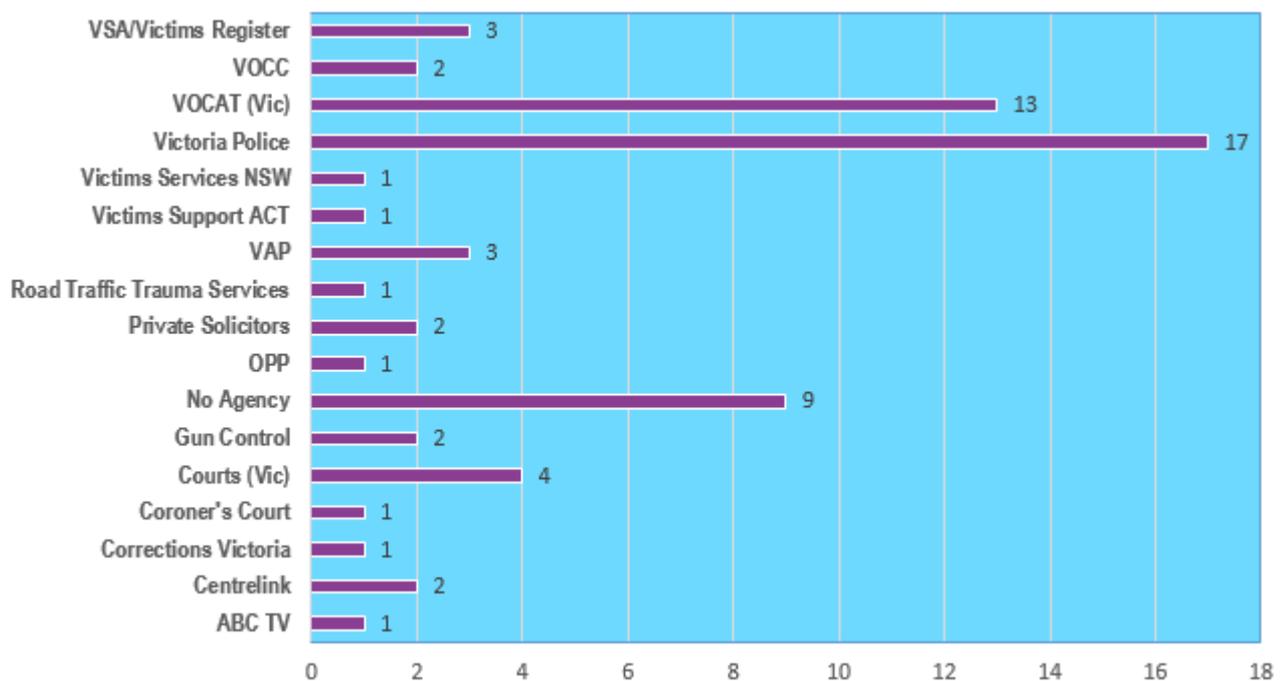


7.1.3 The subject of the contact

The Office also records and identifies individual agencies or subjects that may be the reason for an enquiry or contact.

(Note: Many contacts are made in the context of seeking information about a service or clarification about the role of a service and are not necessarily relating to a complaint. There may be more than one organisation associated with one contact.)

Table 6: *Subject of the contact*



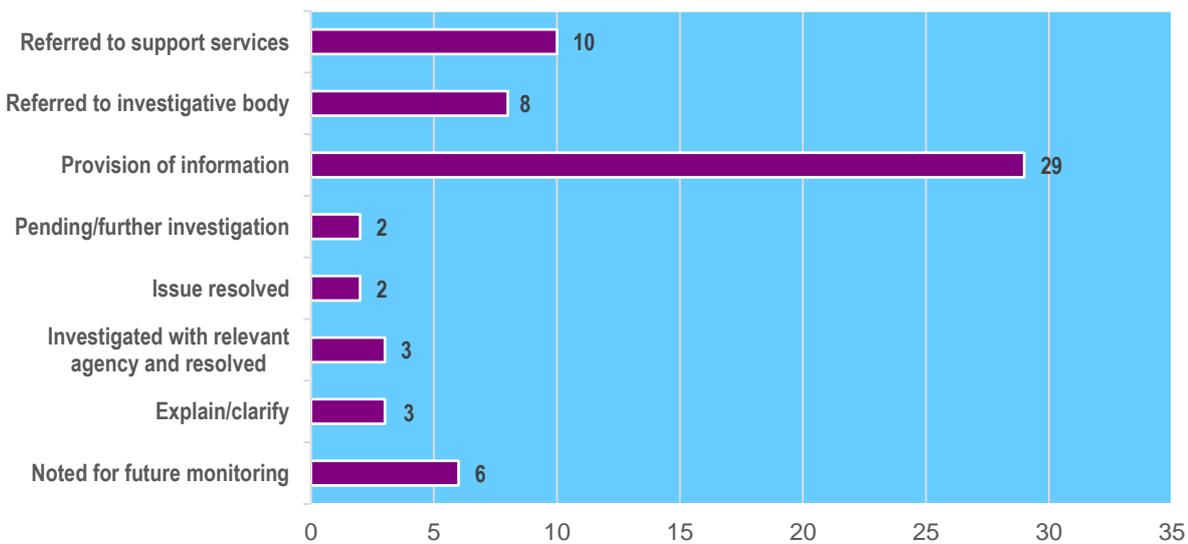
7.1.4 Resolutions of enquiries, complaints and systemic matters

The most common ways a complaint/contact to the Office may be resolved are:

- Issue noted for future monitoring (to determine whether the issue has become systemic).
- Provision of information.
- Referred to support services.
- Explain or clarify the original service.
- Referred to other investigative body.
- Pending, or further investigation.
- Investigated with relevant agency and resolved.
- Issue resolved.

(Refer to 3.3.6 for definitions)

Table 7: Resolution of enquiries, complaints and systemic matters



7.2 Exercise of legislative powers

7.2.1 Requesting records

Sections 18, 19 and 20 of the Act empower the Commissioner to request records from the Secretary to the Department of Justice and Community Safety, the Chief Commissioner of Victoria Police and the Director of Public Prosecutions.

The Commissioner did not make any formal requests in accordance with sections 18, 19 and 20 of the Act for this reporting period. It is important to note that the Office promotes a “collegiate and cooperative” approach with all government agencies, only intending to rely on legislative powers when necessary and only as a last resort.

8 About the Office

8.1 Financial reporting

This Annual Report only contains information relating to the Commissioner's reporting requirements pursuant to section 28 of the *Victims of Crime Commissioner Act 2015* (Vic).

8.2 Freedom of Information

The Freedom of Information Act 1982 (Vic) provides the public with a right of access to documents held by this Office. For the financial year 2018-19, there were no Freedom of Information applications received by this Office.

9 Glossary of Acronyms

DHHS	Department of Health and Human Services
DJCS	Department of Justice and Community Safety
DPP	Director of Public Prosecutions
IBAC	Independent Broad-based Anti-corruption Commission
KITS	Knowledge, Information and Technology Services
OPP	Office of Public Prosecutions
SAC	Sentencing Advisory Council
TAC	Transport Accident Commission
VAP	Victims Assistance Program
VIS	Victim Impact Statement
VLA	Victoria Legal Aid
VLRC	Victorian Law Reform Commission
VOCAT	Victims of Crime Assistance Tribunal
VOCC	Victims of Crime Commissioner
VSA	Victims Support Agency
VSCN	Victims Services Coordination Network