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## ANNUAL REPORT

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The Hon. Jaclyn Symes MP  
Attorney-General

Dear Attorney-General

### **Victims of Crime Commissioner: Annual Report 2021-2022**

In accordance with the *Victims of Crime Commissioner Act 2015* (the Act), I am pleased to present to you the Victims of Crime Commissioner's Annual Report for the financial year ending 30 June 2022 for tabling in Parliament.

This report documents the performance of 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

## Terminology

### **The Act**

means the *Victims of Crime Commissioner Act 2015*, which establishes the Commissioner's role and functions.

### **Agency**

refers to investigatory agencies (such as Victoria Police), prosecuting agencies (such as the Office of Public Prosecutions) and victims' services agencies (such as the Victims Assistance Program). These agencies must treat victims of crime in line with the Victims' Charter principles. Some of these agencies are prescribed in the Regulations.

### **The Charter/Victims' Charter**

means the *Victims' Charter Act 2006*. The Act states that the Commissioner must 'have regard to the Victims' Charter' when exercising their functions.

### **The Commissioner's Office / the Office**

means the Victims of Crime Commissioner's Office. The Office includes the Commissioner and staff.

### **Justice agency**

means agencies that operate within the justice system that may or may not be subject to the Act, Regulations or Charter (such as the Victims of Crime Assistance Tribunal or Corrections Victoria).

### **Justice system**

refers to activities such as policy making and law reform, policing, dispute resolution and restorative justice, and agencies including courts and tribunals, prisons, corrections and legal assistance.

### **Principle**

refers to a principle under the Victims' Charter that justice agencies and victims' services are obligated to comply with.

### **Regulations**

means the *Victims of Crime Commissioner Regulations 2020*, which lists prescribed agencies and services.

### **Victims' services**

refers to services that provide support to victims of crime that may or may not be subject to the Act, Regulations or Charter.

### **Victims' services system**

refers to victim support services delivered by the Victorian Department of Justice and Community Safety's Victim Services, Support and Reform unit (Victims of Crime Helpline, Victims Assistance Program, Victims Register and restorative justice services). It also includes community legal services and specialist sexual assault and family violence services funded by the Victorian Government.



### **Victims of Crime Commissioner**

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# 1. Message from the Victims of Crime Commissioner

A key focus this year was my systemic inquiry on victim participation in the justice system. As part of this inquiry, I engaged extensively with people who have experienced the traumatic impacts of crime. The courage and generosity of people who share their stories always contributes immensely to my understanding of their experiences. Tragically, so often the impact of their traumas has been exacerbated by the justice system.

The justice system is adversarial and by its nature can contribute to trauma. However, at the very least, all victim-survivors should be consistently granted their rights and entitlements under the Victims' Charter.

A Victorian Law Reform Commission (VLRC) review on victims' experience in the justice system led the current State Government to introduce law reforms in 2018 intended to increase accountability to victims and ensure that the treatment they receive by justice agencies and victims' services is consistent with their rights and entitlements under the Charter. This involved expanding the role of the Victims of Crime Commissioner from providing advocacy and undertaking systemic inquiries to a regulator with additional oversight responsibilities to better protect victims' rights.

Specifically, these expanded responsibilities included reviewing complaints from

victims who believe a justice agency or victims' service has not treated them in line with their entitlements. It also included new powers to monitor and annually report on how certain justice agencies and victims' services comply and meet their obligations under the Victims' Charter. Over the past 12 months, work to progress this vision of the role for the benefit of victims has been as extensive as possible within the context of constrained resources.

## Victims' Charter complaints

Since 2019, a robust approach to reviewing complaints has been developed which is accessible to victims of crime. I am pleased to report that I have reviewed complaints and considered enquiries from a diverse range of people who face particular and additional barriers in accessing and navigating the justice and victims' services systems, demonstrating the accessibility of the complaints process. Reviewing complaints has been an opportunity to identify ways justice agencies and victims' services can improve the experiences of victims of crime.

When I consider the concerns victims raise about their experiences, I am increasingly aware of the limitations of the Victims' Charter to respond to issues that many victims want to address. I also recognise that some victims choose not to participate in a complaint review process after weighing the potential trauma of reliving

their experience against the limited outcomes that can be recommended by the Commissioner to agencies that breach victims' rights and entitlements. These factors have contributed to low numbers of reportable complaints in 2021–22. At the same time, the issues victims raise through their enquiries about the complaints review process contribute to my understanding of systemic trends that inform the systemic advocacy I undertake and the legislative review of the Charter that I am obliged to deliver.

## Systemic inquiry and advocacy

These trends informed the topic of my first systemic inquiry announced in June 2021 on victim participation in the justice system. My intention is for victims to be at the centre of the inquiry, and for this reason the initial phase of the inquiry involved extensive consultations with people who have been victims of crime. These consultations have informed the next phase of consulting with people and agencies that work directly with victims.

The inquiry is being undertaken within current and limited resources. Due to this, setting a fixed date for completing the report is not possible. The many ways in which I hear and learn about victims' experiences have also influenced my systemic advocacy to improve their experiences in the justice and victims' services systems.

This Annual Report provides detail on my four key priority areas for change:

- ensuring an effective legislative framework for victims' rights
- ensuring a trauma-informed service system for victims of crime
- ensuring courts are safe for victims
- improving the justice system's response to sexual assault.

Everything I hear from people who are victims of crime makes it clear to me that Victoria needs to raise the bar when it comes to victims' rights. I believe there are ways in which this can be accomplished in parallel, and not in opposition, to those of the accused. It is obvious the intentions behind a tough approach to crime have not been realised in terms of delivering what victim-survivors want and need. Strengthening victims' rights would not only be more just, it would certainly reduce the alarming levels of trauma experienced by victims when navigating the justice system.

## Victims' Charter compliance

Existing victims' rights and entitlements can be assured through effective oversight that promotes adherence to the Victims' Charter and accountability to people who are victims of crime. Last year, I reported that I hoped to implement a more rigorous and risk-based approach to monitoring agency compliance with the Victims' Charter. This was dependent on securing adequate resources.

This year, the Victorian Government Budget 2022–23 committed to a four-year extension of the contribution the Department of Justice and Community Safety has provided over the past two years to supplement my Office funding. However, the Budget did not provide the additional resources necessary to effectively deliver all my statutory functions, which have never been fully funded. Going forward, I will review the composition of my Office to identify possible ways to progress effort towards improving Charter compliance.

Despite ongoing resource challenges, I am proud to report that the establishment work managed so far for the regulatory framework is an approach that will be consistent with the practice principles published this year by Better Regulation Victoria. Where possible, work continues towards understanding the risks that agencies can pose to victims and developing guidelines that will assist agencies required to comply with the Victims' Charter.

Since the regulatory component of the role was introduced in 2019, I am mindful that due to inadequate resources I have not met the statutory obligation to monitor and report on agency compliance with the Victims' Charter. Therefore, in 2021–22, as with previous years, I have sought basic information about how agencies apply victims' rights and entitlements under the Victims' Charter.

What I learn from people who have been victims of crime consistently confirms that in order to be an effective victims' watchdog, the Commissioner role needs to be adequately equipped to undertake the work of regulatory compliance.

This includes promoting good practice, driving the cultural change intended with the introduction of the Victorian Victims' Charter and providing an avenue of accountability for people who have been victims of crime. Unfortunately, the information I have collected from agencies this year, and detailed in this report, indicates the substantial work needed to increase agencies' awareness of their obligations to victims under the Victims' Charter. I am concerned that much of this oversight work is yet to commence.

I want to thank my team for the incredible effort they have achieved over the past 12 months under the guidance of CEO Janine Bush. I am extremely grateful for their commitment and assistance.



**Fiona McCormack**

Victims of Crime Commissioner

## 2. About the Commissioner

**The Victims of Crime Commissioner is an independent statutory officer who advocates for victims of crime in their dealings with the justice system and government agencies.**

The Commissioner operates under the Act, which empowers her to:

- monitor and report on how agencies meet their legal obligations under the Victims' Charter
- investigate complaints from victims of crime who believe their rights and entitlements under the Victims' Charter have not been met by an investigatory body, prosecuting agency and/or victims' service
- advocate for the respect, recognition and inclusion of victims of crime in the Victorian justice system
- conduct inquiries into systemic issues that affect large numbers or particular groups of victims of crime in Victoria
- represent the concerns of victims of crime to government and other decision-making bodies.

The Commissioner is committed to advocating for systemic reforms that bring about cultural change and recognise victims' inherent interests in the justice system.

### 2.1. The Victims' Charter

The Victims' Charter was introduced in 2006 to create principles that ensure victims of crime are acknowledged, respected and provided with the necessary support by justice and victims' services agencies.

The Victims' Charter gives victims the legal right to complain to the agency or to the Commissioner if they believe an agency has not followed a Charter principle.

The Victims' Charter formally recognises the role of victims in the criminal justice process; namely that, while not parties in proceedings, victims should be acknowledged as participants in proceedings for criminal offences, and the criminal justice system should not re-traumatise victims.

The principles that investigatory, prosecuting and victims' services agencies must adhere to include:

- treating victims with courtesy, respect and dignity
- having regard to victims who experience disadvantage
- providing information about services, entitlements and assistance
- communicating with and responding to victims in a way that recognises their preferences and needs
- protecting victims' personal information
- responding to complaints from victims who believe an agency has breached the Victims' Charter.

The way agencies comply with the Victims' Charter directly affects the experiences of victims of crime in both the justice and victims' services systems.

### 2.2. Vision and Values

The Commissioner's vision is for all members of the community to be valued by the institutions that govern them, to be recognised in any decision-making that affects them, and to access the services they need to support their safety and health.

To achieve this vision, the Commissioner is committed to advocating for systemic reforms that bring about cultural change that recognises victims' inherent interests in the justice system.

The Commissioner aims to provide independent oversight of the recognition and inclusion of victims of crime in the justice and victims' services systems.

It is critical that government agencies and government-funded services are regularly monitored and held to account. The Commissioner is committed to ensuring that victims of crime are heard and respected by justice agencies and victims' services, and that they provide safe, inclusive and trauma-informed responses for all victims of crime.

This work is guided by the values of trust, respect, recognition, empowerment and courage, which are outlined in the Commissioner's Strategic Plan 2020–23 and inform the culture and work practices of her Office.

<b>Trust</b>	We use authority responsibly and transparently
<b>Respect</b>	We model the Charter principles of courtesy, respect and dignity
<b>Recognition</b>	We represent the concerns of victims of crime across Victoria's diverse community
<b>Empowerment</b>	We build collective capacity to improve the justice system
<b>Courage</b>	We honour the courage of victims by advocating to the best of our ability

### 2.3. The Commissioner's Office

In 2021–22, the Commissioner was supported by a CEO and 12 staff with expertise in complaint investigation, law reform, research and policy development, regulation and compliance, community and stakeholder engagement, data analytics and project management.

The Commissioner's Office was structured around the following areas of the Commissioner's statutory functions:

- policy and inquiries
- enquiries and complaints
- strategic engagement.

The Office supported the Commissioner to deliver legislative functions that include reviewing complaints made by victims, undertaking systemic advocacy and systemic inquiries, and engaging with victims of crime.

The Commissioner continued to undertake work to establish a regulatory framework to hold justice agencies and victims' services to account through monitoring and reporting on compliance with the Victims' Charter.

In 2022–23, the Commissioner will review the composition of the Office to identify ways to effectively support the Commissioner to meet all statutory obligations within current and forward resourcing.



2.4. Strategic Plan

Throughout the second year of the Commissioner’s Strategic Plan 2020–23, the Commissioner continued to progress the strategic goals and related strategies to achieve the goals.

The plan details how the Commissioner will embed advocating for improved experiences for victims of crime when interacting with justice agencies and victims’ services in all her work during her time in the role.

This Annual Report provides an overview of the Commissioner’s progress in achieving each of these goals and highlights the further work she will undertake in the year ahead.

These goals are outlined in Table 1.

Table 1: Victims of Crime Commissioner’s Strategic Plan goals	
Goal 1	Work with the community to understand and meet the needs of victims of crime
Goal 2	Encourage continuous improvement in the justice system’s response to victims of crime
Goal 3	Hold agencies and services to account under the Victims’ Charter
Goal 4	Advocate for a victim-centred approach to law, policy and practice
Goal 5	Ensure an independent and accountable Commissioner’s Office

3. Strengthening our understanding of victims of crime

Victims of crime come from all walks of life and face different obstacles when navigating the justice system.

The Commissioner’s strategic goal is to work with the community to understand and meet the needs of victims of crime by engaging with and advocating for them through diverse media.

To understand these varying experiences, the Commissioner listens to victims and their community representatives to learn directly from them about the challenges they face.

Throughout 2021–22, the Commissioner met regularly with victims and victim advisory groups to better understand their challenges with the justice process. With increased understanding of victims’ experiences, the Commissioner advocates for improvements to common challenges.

3.1. Engaging with victims of crime

While the Commissioner cannot advocate on individual cases, she engages with victims of crime across Victoria’s diverse community to learn about how victims of crime experience the justice system, where it is letting victims down and how victims’ safety, choices and control can be increased.

By understanding more about the issues that consistently affect victims, the Commissioner can work to influence government and other decision-makers to ensure the justice system can better meet victims’ needs.

In 2021–22, the Commissioner used the victim engagement methodology developed in the previous year to inform a large-scale consultation with victims of crime for the purposes of her first systemic inquiry. The inquiry is exploring victim participation in the justice system and is discussed in more detail in Section 6.2 of this Annual Report.

The consultation the Commissioner undertook included an online survey for victims of crime and individual meetings with victims for her systemic inquiry on victim participation in the justice system. Through this engagement, victims shared both their individual stories and their views on reforms they want to see in the justice and victims’ services systems.

The messages the Commissioner heard from victims have informed the Commissioner’s systemic advocacy on behalf of victims of crime throughout the year. Victims’ experiences also inform the Commissioner’s delivery of her statutory functions more broadly.

Some of the key themes the Commissioner hears from victims include the following:

- Victims don’t feel they are treated as a participant in the justice system, and don’t feel included in the decision-making process – victims describe being marginalised and feeling like bystanders.
- Not all victims know about the Victims’ Charter and about their rights.
- Many victims struggle to access victims’ services, or to get the help they need from victims’ services.
- Many victims are still hesitant to report to police because they did not feel safe talking to police, or they did not think police would take them seriously.

- For those victims who do report to police, many feel they don't get any (or enough) information from police about the progress of their case.
- Many victims don't feel included in decisions that affect them, like police not pursuing charges or prosecutors accepting a guilty plea to a lesser charge.
- Many victims struggle to navigate a complex legal system without access to their own independent legal advice.
- Victims feel unsafe in Victorian courts, with many unable to avoid contact with the accused and/or their family and supporters.

### 3.2. Advocating for victims through diverse media

Throughout 2021–22, the Commissioner used a range of communication tools to advocate for victims of crime in public discourse.

The Commissioner continued her work as a prominent public advocate and spokesperson and was featured across numerous platforms to bring the voices of victims to the forefront of discussions related to them.

The Commissioner launched a social media presence during the year and captured a new audience, while continuing her presence across various media and online platforms.

Communications were key in promoting the Commissioner's systemic inquiry on victim participation in the justice system to ensure a diverse range of victims' voices were captured.

#### Media and communications

The Commissioner responded to media requests on a variety of issues relating to victims of crime, ranging from affirmative consent legislation through to overhauling the justice system itself.

The Commissioner was proactive in approaching media outlets across Victoria on multiple issues affecting victims, including the need for reforms to sexual offence laws, reforms to financial assistance for victims, and the need for improved experiences for victims in the Magistrates' Court.

The Commissioner appeared in numerous media outlets throughout 2021–22, and was featured in *The Guardian*, the *Herald Sun*, *The Age*, *The Australian* and on SBS News Online, ABC News Online, Channel 9 News, 3AW and ABC Radio.

The Commissioner was mentioned in more than 40 different publications, news outlets and radio stations throughout the year, reaching around 5 million people.

Media coverage was at its highest in:

- August 2021 when the Commissioner provided comment on several high-profile issues affecting victims, such as affirmative consent laws
- October 2021 when the Commissioner launched the consultation for her systemic inquiry on victim participation in the justice system
- April 2022 when the Commissioner was interviewed by multiple news outlets about the new Financial Assistance Scheme for victims of crime.

In 2021–22, the Commissioner progressed communication plans, including:

- promoting the victim survey for the Commissioner's systemic inquiry into victim participation in the justice system (detailed in Section 6 of this report)
- preparing for a campaign to raise awareness of the Victims' Charter and the right for victims of crime to complain when they are not satisfied with the way they are treated by an agency (detailed in Section 5.1 of this report).

#### Samples of the Commissioner's comments to the media:

"A fundamental principle of the criminal justice system is to ensure fairness for all – including ensuring all witnesses are supported to give their best evidence. However, many victims with disabilities do not get their day in court."

*The Australian*, 3 August 2021

"The justice system is, despite all efforts, failing sexual assault victims."

ABC News, 24 July 2021

"Too many victims have said the experience of the court process for them was more traumatic than the crime itself, even in violent assaults or sexual assaults."

*The Age*, 9 September 2021

"Victims in Victoria have essentially been failed by this report [on victims' experiences in the Magistrates' Court]. I do believe the government could go further. They don't go to the heart of what victims' experience. It's a real missed opportunity and I think victims have been failed."

*Herald Sun*, 5 December 2021

"I have heard from too many victims of crime that the current system is traumatic. Victims are dealing with the real-life consequences of VOCAT delay – victims of crime are in dire financial circumstances following victimisation."

*The Guardian*, 6 April 2022



# Social media



The Commissioner launched her social media presence on Twitter in October 2021.

Over nine months, the Commissioner's tweets received 57,500 impressions. Top tweets on 1 February, 7 November, 26 May and 23 February received 282, 141, 135 and 133 engagements (including likes, comments, retweets, subsequent followers and link clicks) respectively.

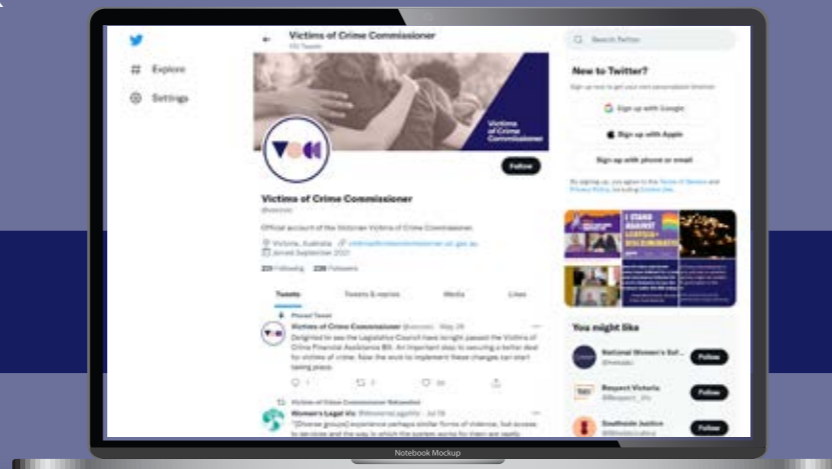
## Top tweets :

**282**  
1 February 2022

**141**  
7 November 2021

**135**  
26 May 2022

**133**  
23 February 2022



Through Twitter the Commissioner identified increased opportunities to:

- connect and engage with victims and victim advocates in a new way
- hear concerns from victims of crime directly
- share immediate information that may be of interest to victims
- amplify (by retweeting) victims' voices.

# Website



In 2021–22, the Commissioner's Office made improvements to the website to bring it in line with the Commissioner's branding and to create a safer space for victims.

Over 12 months, the Commissioner's website received 7,667 new visitors. More than 80 per cent of visitors to the website were new visitors. A total of 12,304 sessions and 24,660 pageviews were recorded.

## Engagement :

### New users:

7,667

↑ **15%**

### Sessions:

12,304

↑ **23%**

### Page views:

24,660

↑ **16%**



This was an increase of 15 per cent on new users (6,501) from 2020–21, 23 per cent on sessions (9,508) and 16 per cent on pageviews (20,781). The increase was largely due to the launch of Twitter and the Commissioner's systemic inquiry.

The Commissioner began a project to fully redesign the website to increase its accessibility and usability, and to ensure the content is easy to understand for victims of crime and others accessing the information. Work will be further progressed on this project in the year ahead.

## 4. Promoting continuous improvement in the justice system

One of the primary objectives for the Commissioner is to promote cultural change in the justice and victims' services systems to improve the experiences of victims of crime.

**The Commissioner's strategic goal is to encourage continuous improvement in the response of the justice system to victims of crime.**

**The Commissioner is achieving this goal by engaging with agencies about the Victims' Charter and starting to monitor their compliance with the Charter.**

Victoria's justice and victims' services systems consist of a range of government, statutory and non-government organisations (including Victoria Police, the Office of Public Prosecutions and community legal services), and other victims' services (such as sexual assault and family violence services).

Victims interact with a range of professionals and agencies through their journeys with the justice and victims' services systems. This includes agencies that investigate the crime, prosecute the accused in the courts and support victims to recover from the adverse impacts of crime.

As outlined in Section 3.1, many victims experience the justice process as highly confusing, distressing and re-traumatising. The Victims' Charter was introduced to improve the experience of victims of crime.

### 4.1. Increasing awareness of the Victims' Charter

The Commissioner is committed to engaging with justice agencies and victims' services to provide information about the Victims' Charter and about the key functions of her role.

In 2021–22, the Commissioner's Office started a project to develop guidelines on the Victims' Charter to assist agencies to fulfil their obligations. The intention is that good practice guidelines will help agencies learn from the experience of others and clarify what the Commissioner considers to be good practice.

When the Victims' Charter was introduced in 2006, it set out the behaviours and obligations agencies need to adhere to when they interact with victims of crime. It also established principles intended to represent minimum standards to govern responses.

The Victims' Charter provides a benchmark for the development of service standards and victims' policy across the criminal justice system. The Charter is critical to promoting cultural change in the justice and victims' services systems.

Its objectives are to:

- recognise the impact of crime on victims including victims' families, witnesses and sometimes the broader community
- recognise that all people adversely affected by crime – regardless of whether they report the offence – should be treated with respect by agencies and offered information to help them access services to assist with their recovery
- recognise that a victim of crime has an inherent interest in the response by the criminal justice system to that crime

- acknowledge the victim's role as a participant in proceedings for criminal offences
- reduce the likelihood that victims experience secondary victimisation by the criminal justice system.

There are 17 principles in the Charter and an additional requirement to have a complaints system so that people affected by crime can raise concerns if Charter principles have not been met. Some of the principles apply to all agencies, some to investigatory agencies, some to prosecuting agencies and some are specific to single agencies such as the office supporting the Director of Public Prosecutions.

While each Charter principle is a separate statement, the guidelines will recognise that the principles need to be implemented as a coordinated package that acknowledges victims' rights and entitlements throughout the entire criminal justice process.

The guidelines will aim to:

- build ownership and understanding among all agencies about what is good practice in implementing the Charter, consistent with the objects in the Victims' Charter Act
- assist agencies in understanding the differences between working with victims of crime and other clients
- help agencies create more approachable and effective complaints processes that meet the entitlements of people affected by crime
- improve transparency for victims of crime on what compliance with the Charter means for people adversely affected by crime when interacting with agencies.

The Commissioner is required to monitor and report annually on how agencies have complied with the Charter, including the principles.



## 5. Holding justice agencies and victims' services to account

The Commissioner is empowered under the Act to receive and investigate complaints from victims of crime if an agency has breached the principles of the Victims' Charter and hasn't addressed the victim's concerns.

**The Commissioner's strategic goal is to hold justice agencies and victims' services to account for their treatment of people who are adversely affected by crime.**

Receiving enquiries and responding to victims with potential complaints about Victims' Charter breaches also provides valuable information for the Commissioner in understanding compliance with the Victims' Charter.

The Commissioner is required to report each financial year on the compliance of justice agencies and victims' services with the Victims' Charter.

The information the Commissioner receives from victims and through the compliance function also helps to identify systemic trends. These trends inform the Commissioner's systemic advocacy to improve the experiences of victims of crime in the justice and victims' services systems and will assist her review of the Victims' Charter.

### 5.1. Delivering accessible complaint reviews to victims of crime

Victims of crime can make a complaint to the Commissioner if they believe an agency has breached a Victims' Charter principle and they are not satisfied with the agency's response to their concerns.

The most common reasons that victims complain to the Commissioner include agencies:

- not treating a victim with dignity and respect
- not providing victims with information about relevant support services, an investigation or court processes
- not communicating with victims in ways that assist them to understand the information being communicated.

These are all potential breaches of the Charter and can warrant further investigation by the Commissioner if the agency in question has not responded to the concerns of the victim making the complaint.

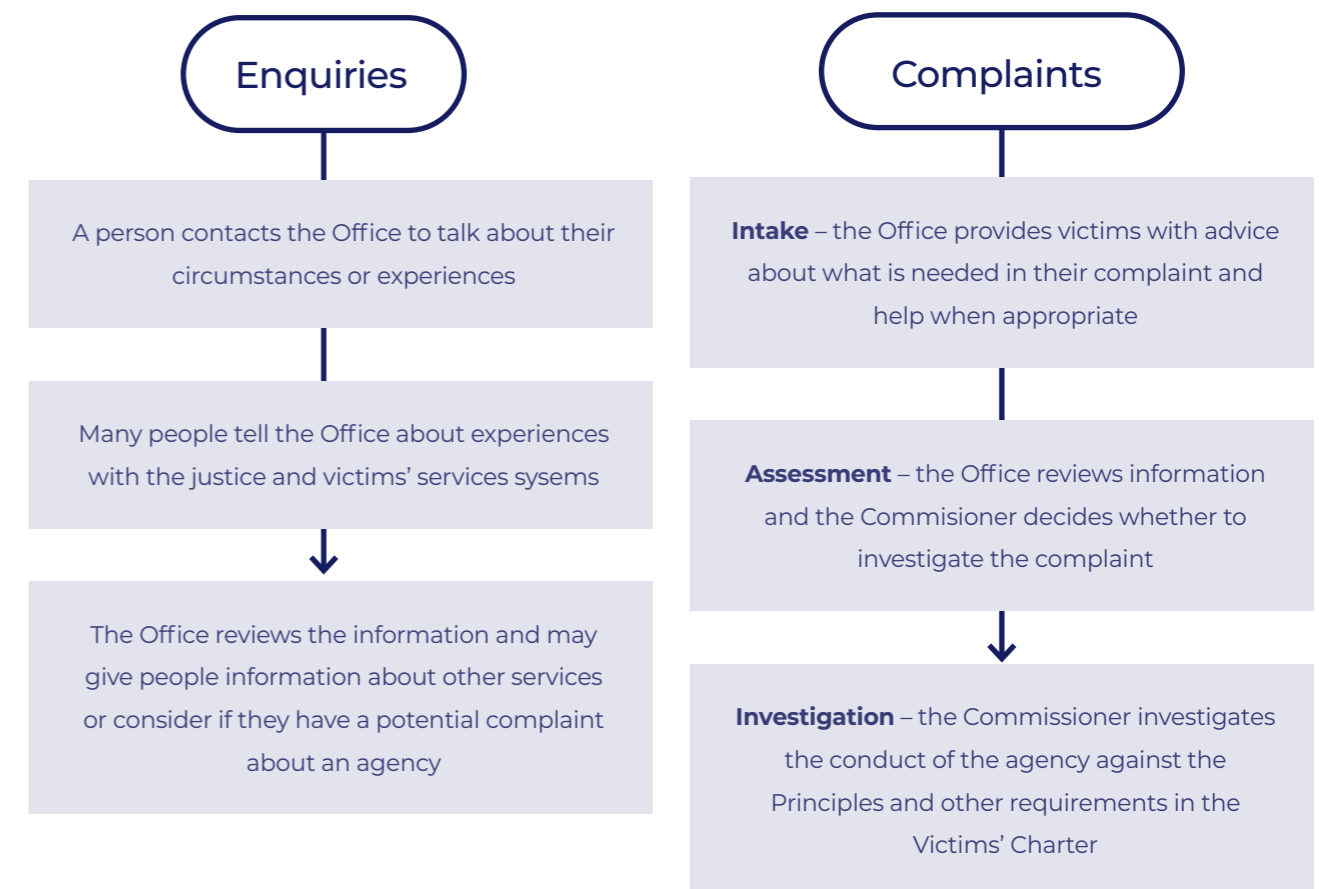
**The Commissioner has worked to hold justice agencies and victims' services to account by designing and delivering a robust approach to reviewing complaints about potential Victims' Charter breaches that is accessible to all victims of crime. This includes receiving and responding to a range of enquiries from people affected by crime.**

Following the investigation of a complaint, the Commissioner can make non-binding recommendations to an agency that it take any of the following actions:

- an apology, explanation or facilitated meeting
- additional training
- a change of policy
- the provision of information.

In 2021–22, the Commissioner progressed the development of robust, trauma-informed systems and processes for managing enquiries and complaints. The Commissioner is committed to continuously improving the approach to responding to enquiries and reviewing potential complaints to ensure the processes are accessible, safe and transparent.

**Figure 1:** Enquiries and complaints processes



Systems and processes for enquiries and complaints support the Commissioner to review complaints that meet statutory obligations under the Act and the Victims' Charter.

They also help to inform the Commissioner's understanding of systemic issues experienced by victims of crime and contribute to systemic advocacy and compliance monitoring, which is outlined further in Section 5.3.

**Reviewing complaints about potential Victims' Charter breaches**

The Commissioner has adopted a comprehensive approach to managing complaints through the phases of assessment and investigation. The process ensures that the Commissioner and the Office:

- comply with the requirements of the Act during the receipt and assessment of complaints
- adopt a trauma-informed approach when interacting with victims
- facilitate the engagement of agencies with the complaints process
- comply with procedural fairness requirements
- apply the Victims' Charter principles to complaints appropriately and consistently
- are flexible enough to respond appropriately to the specifics of particular complaints.

The Commissioner's decisions about assessments and investigations are robust, evidence-based, transparent and recorded.

**Victims' concerns with the justice and victims' services systems**

The Commissioner noted that a significant percentage of people continued to contact the Office to make a complaint for reasons outside the Commissioner's functions and powers outlined in the Act.

Enquiries from victims frequently related

to concerns about decisions made during an investigation or court proceedings, or difficulties experienced with seeking financial assistance through the current Victims of Crime Assistance Tribunal (VOCAT).

In 2021–22, the Commissioner received:

- **23 enquiries** about matters that related to principles of the Victims' Charter only
- **85 enquiries** about matters outside the Commissioner's role, functions and powers only
- **55 enquiries** about matters that related to principles of the Victims' Charter and those outside the Commissioner's role, functions and powers.

When enquiries relate to concerns that are not about potential breaches of the Victims' Charter, the Commissioner has no power or authority to investigate their concerns.

The Commissioner will undertake a communications strategy in 2022–23 to raise awareness of the complaints function and increase understanding of eligibility for making a complaint under the Act.

In 2022–23, the Commissioner will also continue to advocate for reforms to assist more victims of crime who are not satisfied with their treatment by the justice and victims' services systems.

The Commissioner has a statutory requirement to review the Victims' Charter in 2024 and this will be an important opportunity to consider how victims' right to complain can be strengthened and made more relevant to the experiences of victims in both the justice and victims' services systems.

The Commissioner has identified that some victims do not want to engage in the Commissioner's complaint review process due to the limited outcomes that can be recommended under the Act. Some victims also anticipate that the complaints process will result in further re-traumatisation due to reliving experiences they had through the justice and victims' services systems and the crime itself.

**Enquiries**

The Commissioner's Office receives enquiries from people about their experiences with justice agencies and victims' services. When these matters do not relate to the Commissioner's complaints functions, the Office provides people with relevant information, including any relevant services.

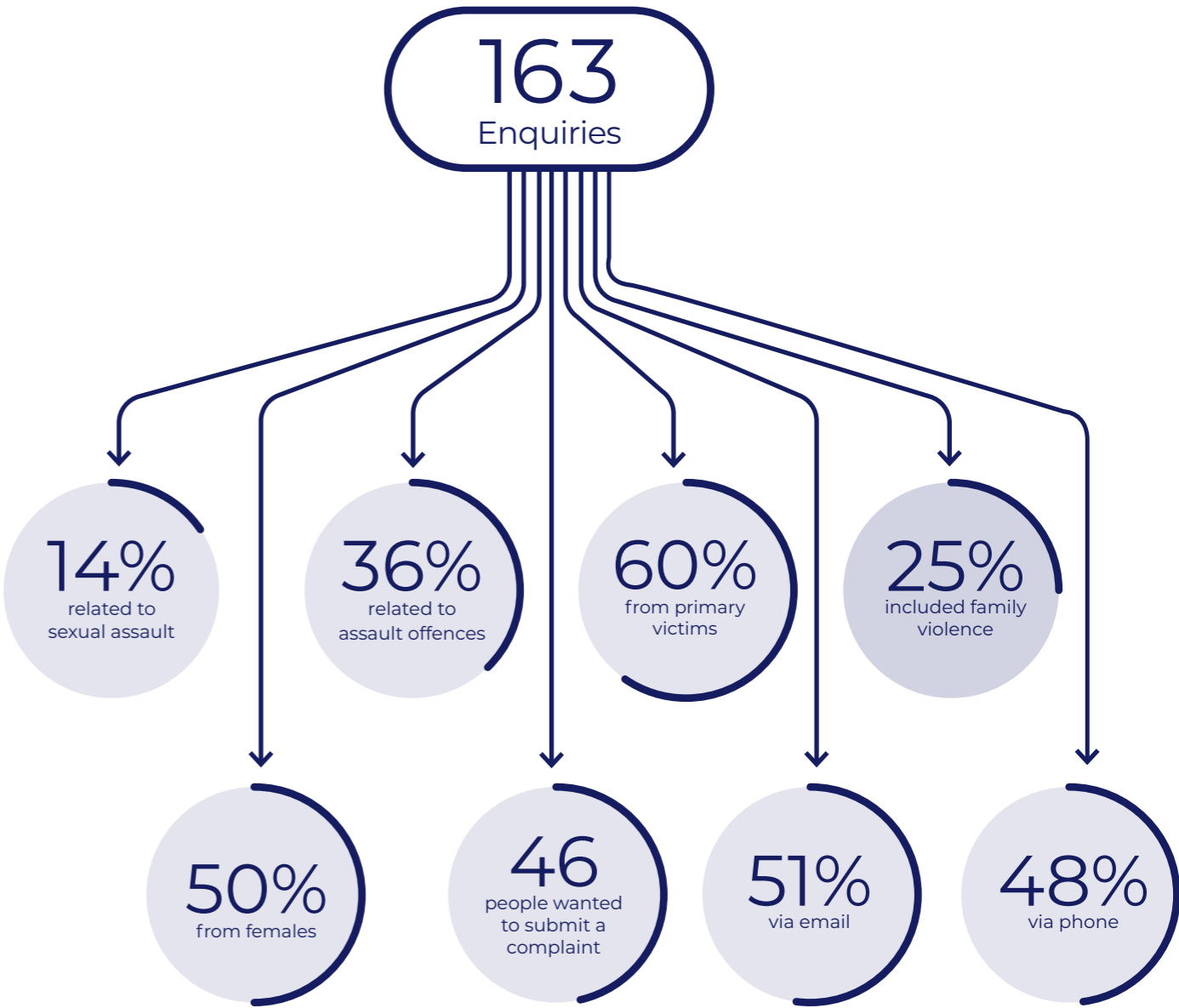
The types of enquiries the Commissioner receives demonstrate that there is ongoing confusion about how the justice system works. For example, there are multiple agencies that victims of crime may need to navigate within

the justice and victims' services systems which specifically reference 'victim' in their title, including:

- Victims of Crime Assistance Tribunal
- Victims of Crime Helpline
- Victims Register
- Victims Assistance Programs
- Victim Services, Support and Reform

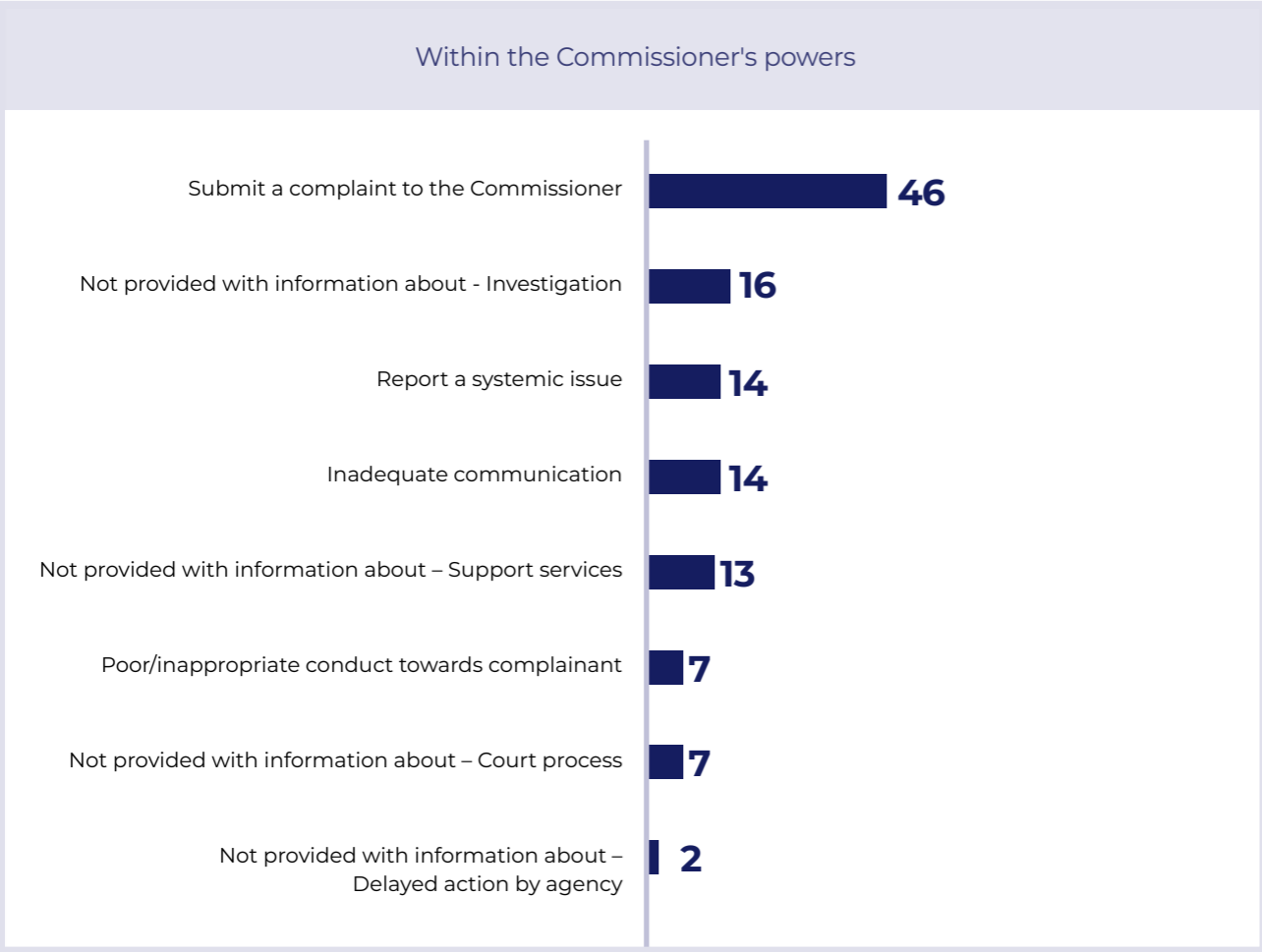
In 2021–22, the Commissioner received 163 enquiries. Figure 2 outlines the nature of these enquiries.

**Figure 2:** Enquiries received in 2021-22



Figures 3A and 3B list the reasons why people contacted the Commissioner, which separates the enquiries related to the Commissioner’s powers and those that are not in her power to receive complaints about.

Figure 3A : Reasons enquirers contact the Office



The diagrams in Figures 3A and 3B show that most people contacted the Commissioner for reasons that fall outside the Commissioner’s functions and powers outlined in the Act. These included people who were experiencing issues with government departments in other states, territories and the Commonwealth.

The reasons also included people who were not satisfied with:

- the conduct of an investigation or a prosecution by Victoria Police, including decisions about whether to charge a person or not to charge a person with a criminal offence or to accept a plea of guilt

- the conduct of a prosecution by the Director of Public Prosecutions, including decisions about whether to accept a plea of guilt
- the outcome of a criminal trial
- decisions or comments made by a judge during a criminal trial.

The Commissioner cannot investigate complaints about the above matters. By law, the Commissioner cannot prejudice a criminal proceeding or a criminal investigation.

Figure 3B : Reasons enquirers contact the Office

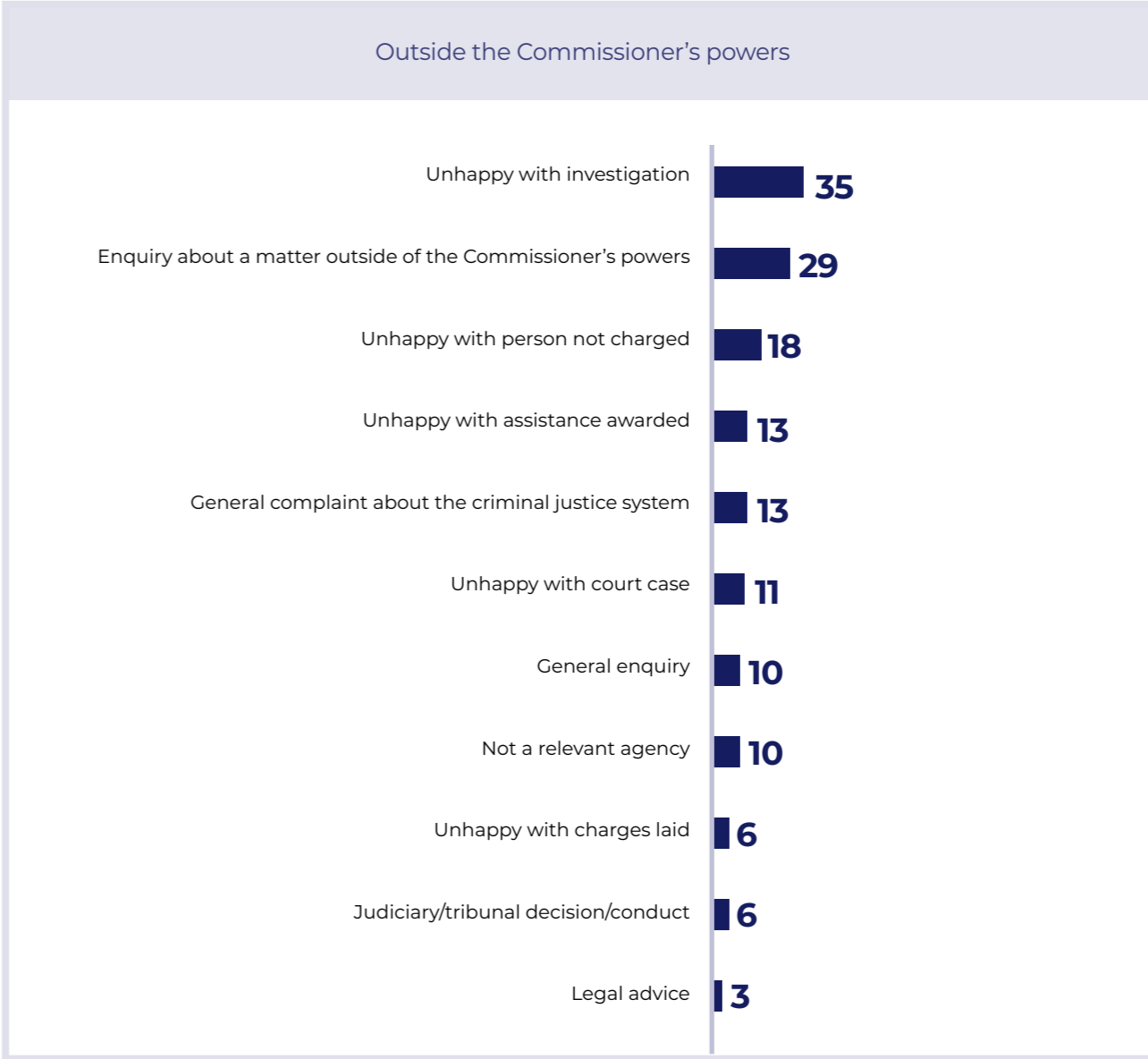
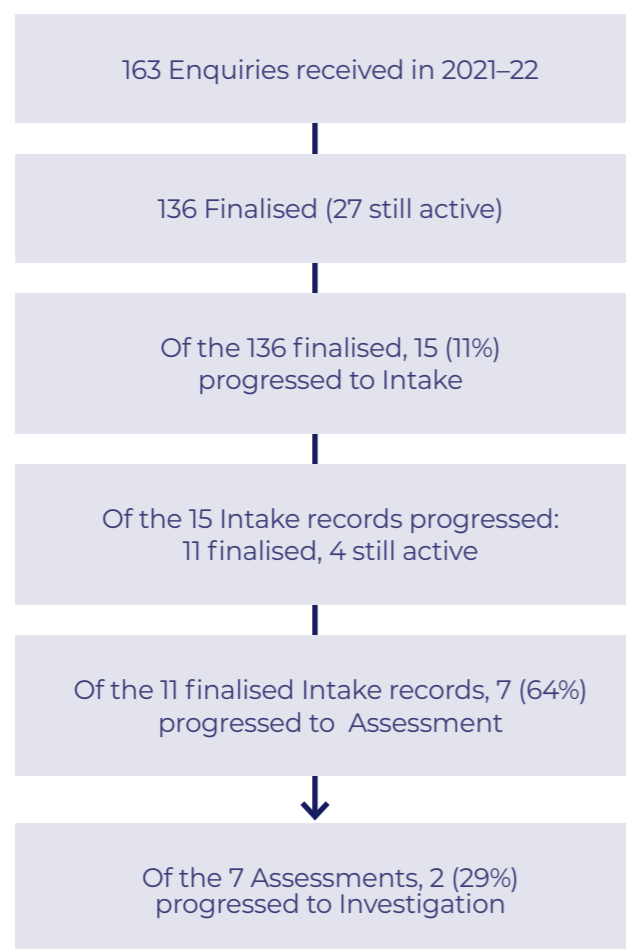


Figure 4 shows the number of enquiries where the Commissioner's Office assisted an enquirer to begin the process of submitting a complaint (intake) and the number of complaints the Commissioner received (assessment).

Enquiries often do not progress into the Commissioner's complaints process because victims of crime are frequently dissatisfied with justice processes such as decisions made during investigations and court proceedings.

**Figure 4 :** Number of enquiries that progress to a complaint review



### Limits on the Commissioner's powers

In delivering the role's functions, the Commissioner cannot prejudice:

- a criminal investigation
- a civil or criminal proceeding
- an investigation by the Independent Broad-based Anti-corruption Commission
- any proceeding in the Family Division of the Children's Court
- any proceeding in the Coroners Court
- any proceeding under the *Crimes (Mental Impairment and Unfitness to be Tried) Act 1997*
- any proceeding under the *Victoria Police Act 2013*.

Section 22, *Victims of Crime Commissioner Act 2015*

The Commissioner's complaint review function is concerned with how victims are treated by agencies, how they are provided with information about processes and the way agencies communicate with them. The Commissioner cannot review decisions made by investigatory bodies or prosecuting agencies.

While the Commissioner cannot investigate complaints that are outside her functions and powers, as outlined in Section 5.3, the Commissioner does use the information victims provide about their experiences to identify systemic trends and to advocate for law and policy reform.

### Complaints

As outlined in the previous section, very few enquiries progress to a complaint and in 2021-22, the numbers of complaints the Commissioner reviewed were low.

This section outlines the complaints received and investigated.

The next section outlines the Commissioner's intended communications campaign to raise awareness of the complaints functions and eligibility requirements under the Victims' Charter.

Last year, the Commissioner noted that four of the complaints received were still active and under investigation at the end of the reporting cycle.

In 2021-22, of these four complaints:

- one complaint was completed
- two complaints were suspended due to the Commissioner's limitations under section 22 of the Act and related issues that arose during the investigations
- one complaint is still active and in the final stage of investigation – delays in the review of the complaint relate to a combination of complexities.

In 2021-22, the Commissioner received eight matters that progressed to a complaint:

- one complaint was about an investigatory agency only, which was withdrawn
- four complaints were about an investigatory and prosecuting agency
- two were about a victims' services agency
- one complaint is due to be assessed in the 2022-23 financial year.

Of the seven complaints assessed, the Commissioner made a decision to investigate two of the complaints. Those complaints are still under investigation.

### Complaints from victims of crime

In 2021-22, the principles in the Victims' Charter that victims of crime complained most about were:

- section 6 – treatment of persons adversely affected by crime
- section 8 – information to be given to victims about investigation
- section 9 – information regarding prosecution
- section 11 – information about court processes.

*Victims' Charter Act 2006*

Of the four complaints that the Commissioner declined to investigate, she did so for the following reasons:

- the agency had not finalised its investigation of the complaint<sup>1</sup>
- the Commissioner was satisfied that the complaint was lacking in substance, not made in good faith, or for an improper purpose<sup>2</sup>
- the Commissioner was satisfied that it was appropriate to do so in the circumstances because:
  - an investigation of the complaint may have prejudiced a criminal trial or investigation
  - the alleged Charter breach occurred prior to the commencement of the Commissioner’s complaint handling powers.<sup>3</sup>

At the end of 2021–22, three investigations are still active and one assessment is in progress.

While not all complaints can be investigated, the Commissioner considers all information that victims of crime provide, which continues to increase her understanding of systemic issues and trends.

Understanding these systemic issues helps the Commissioner to advocate for the fair treatment of victims of crime in the justice system and make recommendations to the government on how victims of crime should be treated in the future. Further information about systemic trends is outlined in Section 5.3.

**Raising awareness of the complaints function**

In 2021–22, the Commissioner started work on developing communications, to roll out in 2022–23, to promote the complaints function to victims of crime and services that deal directly with victims.

The primary aim of the communications strategy is to increase awareness of the Victims’ Charter and the Commissioner’s complaints function for victims of crime.

The strategy will also aim to strengthen community understanding of who can complain and in what circumstances. It is anticipated that these communications will increase victims’ awareness of their rights and entitlements under the Victims’ Charter.

Given the extent to which the Commissioner hears victims of crime have not had good experiences in the justice and victims’ services systems (see Section 3.1), it is expected that the number of relevant enquiries and complaints the Commissioner receives will increase.

As outlined in Section 3.2, social media has also been an important tool in promoting the Commissioner’s complaints function and developing awareness of the Commissioner’s statutory roles among victims, victims’ advocates, victims’ services and the media.

**5.2 Encouraging compliance with the Victims’ Charter**

The Commissioner is required to report each financial year on the compliance of agencies with the Victims’ Charter.

The *Victims of Crime Commissioner Regulations 2020* prescribes agencies to demonstrate compliance with the Victims’ Charter. These agencies include specific investigatory, prosecuting and victims’ services agencies.

Since 2019–20, the Commissioner has been developing a regulatory approach to monitor and report on agency compliance with the Victims’ Charter. The regulatory approach is being designed to meet the best practice principles set out in Better Regulation Victoria’s guidelines released in May 2022.

The following table outlines the principles and the Commissioner’s progress in developing the regulatory approach for compliance with the Victims’ Charter.

The Commissioner progressed the goal to hold agencies to account by continuing to develop a regulatory approach for monitoring agency compliance with the Victims’ Charter.

In 2021–22, due to limited resources, the Commissioner could not monitor and assess agency compliance with the Victims’ Charter.

However, the Commissioner continued to seek information about systems and processes agencies have in place. This year’s request for information adopted a tailored approach about specific rights and entitlements victims of crime have to information under the Victims’ Charter.

1 Section 25G(a) of the Act  
2 Section 25G(d) of the Act  
3 Section 25G(e) of the Act



Better regulatory practice principles and VOCC regulatory approach

	Practice principle	VOCC Office approach
Strategy	1. Regulatory outcome and harms to minimise	In 2020, the Commissioner engaged a regulatory expert to assist in developing a regulatory framework that: <ul style="list-style-type: none"><li>• is fit for purpose and based on the tailored requirements under the Victims' Charter</li><li>• accounts for the differences in types of agencies with obligations</li><li>• is aligned with the size of the Commissioner's Office</li><li>• recognises the harms that agencies pose to victims of crime being retraumatised by justice agencies and victims' services.</li></ul>
	2. Approach to minimising harms	
	3. Regulatory regime is fit for purpose	
		In 2021–22, the Commissioner progressed this by undertaking a research project to determine the risk of harm that agencies can cause to victims of crime.
Operations	4. Support agencies to understand the value of harm reduction	In 2021–22, the Commissioner commenced a project to develop guidelines for the Victims' Charter to support agencies to understand the Commissioner's expectations of agencies' conduct towards victims of crime.
	5. Support agencies to comply	
	6. Target regulatory effort based on risk of harm	The Commissioner continues to develop systems to provide information to agencies about what the Commissioner finds through the requests for information and analysis on how agencies meet their obligations.
	7. Communicate VOCC efforts and how they impact on regulatory outcomes	
Enabling Practices	8. Work with regulatory peers and partners on shared harms and risks	The Commissioner has committed to developing tools, guidance and information sessions to assist agencies to understand good practice and ways that agencies can support each other to comply.
	9. Transparency and accountability for how the VOCC performs activities	
	10. Continuously improve regulatory operations	The Commissioner reports annually to the Attorney-General and the Minister for Victim Support on the compliance of agencies with the Victims' Charter. The report is tabled in Parliament.  The Commissioner has integrated continuous improvement into the draft regulatory framework, particularly to account for the newly established requirements for monitoring and reporting on compliance with the Victims' Charter.

Compliance reporting approach, 2021–22

Since the regulatory oversight function came into effect, the Commissioner has made a committed effort to understand agencies' levels of awareness of the Victims' Charter and the Commissioner's role and functions.

The Commissioner has also sought high-level information from justice agencies and victims' services about operational policies, guidelines, training, and complaints processes relevant to the Victims' Charter. To date, this information has been sought from all prescribed agencies, regardless of the type of agency, under the Charter.

In 2021–22, the Commissioner progressed to a more tailored approach to understanding agencies' approaches to complying with their obligations under the Victims' Charter.

This enables the following differences to be considered:

- agency categories – investigatory, prosecuting and victims' service agencies
- principles under the Victims' Charter that create specific obligations for different agency categories.

As outlined in the 2020–21 Annual Report, the Commissioner has appreciated the support of the Department of Justice and Community Safety for the Commissioner to be resourced to undertake establishment work in the role, excluding the regulatory oversight functions.

The Commissioner stated that more adequate resourcing was required to fully implement a robust compliance monitoring and reporting approach.

In 2021–22, the Victorian Government Budget 2022–23 committed to extending the Department of Justice and Community Safety's contribution to the Commissioner's Office for four years; however, it did not provide additional resources to implement the regulatory approach.

In 2022–23, the Commissioner will review resources within the Office to identify ways to strengthen the approach to holding justice agencies and victims' services to account under the Victims' Charter.

Agency compliance 2021–22

In 2021–22, 159 justice agencies and victims' services were required to comply with the Victims' Charter.

The Commissioner requested information from the following agencies:

**1) Three investigatory and prosecuting agencies:**

- Victoria Police
- WorkSafe
- Office of Public Prosecutions

**2) Victims' services agencies:**

- Department of Justice and Community Safety
- Victoria Legal Aid
- 154 agencies that provide services to victims of crime, such as:
  - Victims Assistance Program
  - family violence services, including support and safety hubs (also known as The Orange Door)
  - sexual assault services
  - Court Network services
  - community legal services.

**Ensuring victim entitlements to information under the Victims' Charter**

In 2021–22, the Commissioner adopted a tailored approach to understanding agencies' approaches to meeting their obligations under the Victims' Charter.

The Commissioner requested justice agencies and victims' services respond to survey questions about their approach to providing victims of crime with information at specific stages of their journey through the justice process. The questions relate to the rights and entitlements for victims of crime to be provided information under the Victims' Charter. Investigatory and prosecuting agencies have additional and specific requirements around providing information at critical stages.

The table below outlines the relevant principles by agency type.

Agency type	Charter principle relating to information entitlements/rights
Investigatory	Information to be given to persons adversely affected by crime (section 7)
Prosecuting	Information regarding complaints process for persons adversely affected by crime (section 19)
Victims' services	Information regarding complaints system for victims and the right to have a complaint reviewed under the Act (section 19A(3))
Investigatory	Information to be given to victim about investigation (section 8)
Prosecuting	Information regarding prosecution (section 9)
	Information about applications for bail (section 10)
	Information about court processes (section 11)
Director of Public Prosecutions (DPP)	Additional information regarding prosecution to be provided by DPP (section 9A)
	Views of victim to be sought by DPP before certain decisions are made (section 9B)
	DPP to give reasons for certain decisions (section 9C), such as when an offence is charged or not charged, and changes to offences charged

The information rights and entitlements for victims under sections 7, 19 and 19A(3) of the Victims' Charter are common across all agency types, and a summary of responses relating to these sections is included in the Annual Report.

The evidence provided by prosecuting and investigatory agencies about their specific Charter obligations will be used to further develop the Commissioner's regulatory approach for these agencies.

Section 7—Agency systems for providing information about relevant support services, entitlements and legal assistance

Prescribed agencies were asked if they have procedures to ensure consistent, timely and clear information is provided to victims of crime about support services, their entitlements and legal assistance they can access.

The majority of agencies (72 per cent) stated they have procedures in place to ensure victims of crime are provided with the information they are entitled to. Of the 20 per cent of agencies that did not have

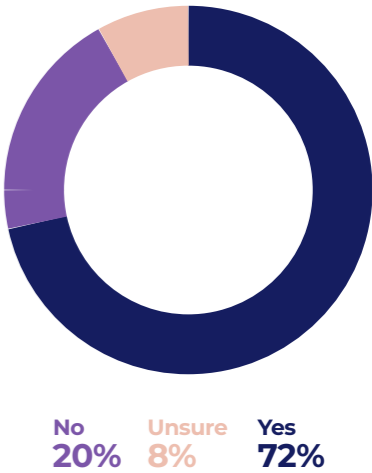
specific processes in place, 58 per cent considered their standard practices would meet the Victims' Charter requirements.

Seventy per cent of all agencies advised that specific training was in place in relation to how this information was provided to victims.

Agencies were also asked if they held internal records confirming that information about victims' entitlements was provided.

Sixty per cent of all agencies stated that this was the case.

Procedures in place to ensure information related to section 7 is provided to victims



Section 19—Agency processes for providing information about complaint process for people adversely affected by crime

Prescribed agencies were asked if they have procedures to ensure people affected by crime are provided with information about their right to make a complaint about their treatment by an investigatory, prosecuting or victims' service agency under the Victims' Charter.

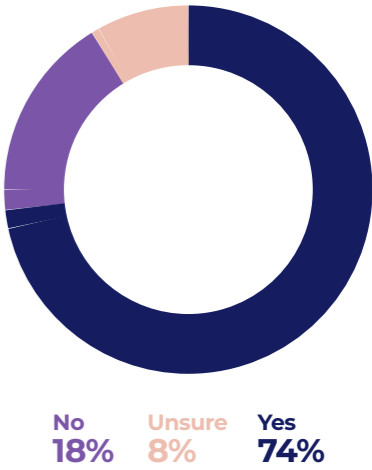
Generally, agencies that had procedures in place for providing information to victims about support services and legal assistance also had processes to ensure victims of crime could complain to the agency if they were concerned the agency had not upheld the Victims' Charter principles (93 per cent).

Of the agencies that indicated they had no specific procedures to provide information about complaints processes specific to the Victims' Charter, 63 per cent stated that they did have general complaints processes in place. There was also a greater level of acknowledgement by these agencies that they had a possible gap in compliance with the Charter.

Sixty-eight per cent of all agencies indicated that specific training was in place in relation to providing this information to victims.

Agencies were also asked if they held internal records confirming that information about the right to complain was provided to victims of crime. Fifty-five per cent of all agencies stated that this was the case.

Procedures in place to ensure information related to section 19 is provided to victims



### Section 19A(3)—Agency processes for providing information about complaints systems for victims and the right to have a complaint reviewed under the Act

Prescribed agencies were asked if they have procedures to ensure information about complaints concerning the Victims' Charter is provided to victims of crime, including the right to request the Commissioner review their complaint if they are dissatisfied with the agency's response to their complaint.

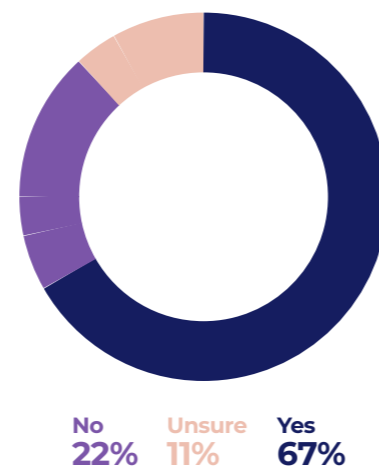
Of the three sections reported on, agencies were the least likely to have processes in place to ensure victims' rights to information about resolving complaints (67 per cent).

Agencies were also the most unaware or unsure if their current procedures met their Charter obligations to ensure victims were informed about their right to complain.

Sixty-five per cent of all agencies reported that specific training was in place in relation to providing this information to victims.

Agencies were also asked if they held internal records confirming that information was provided to victims about their right to complain or to request the Commissioner conduct a review of their complaint. Just over half (55 per cent) of all agencies reported they have a system for keeping these records.

Procedures in place to ensure information related to section 19A(3) is provided to victims



### Summary of results

While the survey results indicate that the majority of agencies do have procedures in place in relation to providing victims of crime with information at specific stages of their journey through the justice process, there remains a significant number of agencies that do not have processes in place.

Notably, due to limited staff resources, the Commissioner did not verify the self assessments made by agencies that they have established and implemented adequate systems and processes to meet the information rights and entitlements of victims of crime under the Victims' Charter. The Commissioner intends to introduce robust verification of agency approaches under the future implementation of the Commissioner's regulatory framework.

Agency responses to sections 19 and 19A(3) provide further evidence of the importance of the Commissioner's review of the Victims' Charter in 2024 in relation to how a victims' right to complain can be strengthened, clarified, and made more relevant to the experiences of victims in both the justice and victims' services systems.

### 5.3. Identifying systemic trends

One of the Commissioner's strategic directions is to continuously review enquiries, complaints and compliance data in order to identify trends in the justice system and reveal shortcomings in the treatment of victims of crime. This provides the Commissioner with important information about the experiences of victims of crime within the justice system.

The Commissioner has reviewed enquiries, complaints and compliance data to identify trends and issues that inform her systemic advocacy to improve victims' experiences in the justice and victims' services systems.

An overarching systemic trend that the Commissioner identified from internal data is that victims of crime continue to feel that investigatory and prosecuting agencies do not provide adequate information about the progress of proceedings to people affected by the crime.

This included victims not being provided with information about:

- investigations being conducted by investigatory agencies
- court processes by prosecuting agencies
- support services the victim may be entitled to access.

The information requested under the Commissioner's compliance monitoring and reporting functions are intended to provide further insights into these potential trends.

In addition to information provision concerns, the Commissioner identified three emerging systemic trends that are outlined in more detail in this Section.



## Emerging systemic trends

### Decisions made by investigatory and prosecuting agencies

Victims of crime have consistently contacted the Commissioner about their dissatisfaction with decisions made by investigatory and prosecuting agencies.

These decisions relate to:

- the conduct of an investigation by an investigatory agency
- a failure of an investigatory agency or a prosecuting agency to charge or prosecute a person with an offence.

The most common offences experienced by victims of crime expressing dissatisfaction about decisions made by justice agencies were:

- assault offences
- sexual offences
- stalking and related offences.

Many victims informed the Commissioner they considered the decisions made by the relevant agency were unfair and lacked transparency and accountability. Some expressed frustration that there were limited avenues to have such decisions independently reviewed.

These views have informed the Commissioner's advocacy for a scheme that gives victims the right to have such decisions independently reviewed.

1

### Victims of Crime Assistance Tribunal (VOCAT)

Consistent with previous years, in 2021–22, many victims contacted the Commissioner to express their dissatisfaction with processes involved in making an application for financial assistance with VOCAT.

The most common issues victims expressed about VOCAT included:

- dissatisfaction with the degree of financial assistance awarded, often expressed to be inadequate to help them manage ongoing issues related to their criminal victimisation
- inaccessibility of VOCAT staff to assist victims with issues they were experiencing with their application for financial assistance
- inadequate assistance to apply for financial assistance from VOCAT staff or the lawyers assisting them with their application
- lengthy waiting periods for the outcome of an application to be determined, which contributed to their experience of re-traumatisation by the system.

Where appropriate, the Commissioner has drawn specific issues to the attention of VOCAT. In December 2021, the Commissioner also welcomed an opportunity to speak with newly established Tribunal officers about victims' experience of the financial assistance system, the Victims' Charter and the Commissioner's role.

A new Financial Assistance Scheme is currently being designed for implementation in 2023 (discussed in Section 6) which has the potential to address many of the issues victims of crime express when seeking financial assistance. The Commissioner will have an oversight function for the new scheme, which will be required to comply with the Victims' Charter.

2

### Personal violence

An emerging issue for victims of crime identified by the Commissioner involved the experience of personal violence. This is violence experienced at the hands of a person with whom the victim is acquainted but not in a familial relationship. The most common offences experienced by victims of personal violence are stalking, assault and property damage.

Many of the victims who contacted the Commissioner said their experience of victimisation involved:

- more than one victim, including other family members and children
- more than one perpetrator
- alleged offences committed by neighbours.

Victims who contacted the Commissioner expressed a high degree of vulnerability due to their proximity to the perpetrator and the perpetrator's knowledge of the victim and their whereabouts.

Victims also expressed:

- a perceived lack of response by investigating agencies and victim support agencies to their reports of victimisation
- fear of retaliation from perpetrators, with some experiencing retaliation from perpetrators after reporting the alleged offences to Victoria Police
- difficulties accessing support, including assistance to apply for and obtain personal violence intervention orders because they are not experiencing family violence.

The Commissioner will continue to monitor this issue in 2022–23.

3

## 6. Advocating for victim-centred laws and practices

The Commissioner is empowered to advocate for the respect, recognition and inclusion of victims of crime in the justice system and represent their concerns to government.

Underpinning all the Commissioner's work is a commitment to try to influence cultural change that recognises victims' interests in the justice system and integrates victims' rights. The goal is to achieve this through law and policy reform processes.

In 2021–22, the Commissioner provided views on law reforms and policy proposals on a wide range of issues affecting the rights and interests of victims by attending consultations and meeting with departments and ministers, making written submissions and consulting with advisory committees.

One of the Commissioner's strategic goals is to advocate for a victim-centred approach to law, policy and practice.

The Commissioner works to achieve this goal by:

- maintaining an evidence base to inform the Commissioner's advocacy
- conducting inquiries into systemic issues that affect victims of crime
- representing the interests of victims of crime to government.

## Advocating for overarching reforms to improve victims' experiences

Throughout all the submissions, consultations, media appearances, participation at forums and conferences, and correspondence with government and statutory bodies, the Commissioner has advocated for four overarching reforms to the justice and victims' services systems.

### 1. Ensuring an effective legislative framework for victims' rights by:

- strengthening the Victims' Charter so that all victims have the same entitlements, regardless of jurisdiction or prosecuting body
- recognising victims' rights as human rights
- establishing an independent victims' right to review scheme for certain police and prosecution decisions
- giving victims in criminal mental impairment matters more information and more rights.

### 2. Ensuring courts are safe for victims through:

- government commitment to audit all Victorian courts to ensure they meet contemporary standards for victim safety and wellbeing, including safe entries and exits, safe waiting spaces and access to appropriate technology and facilities to enable alternative ways to give evidence
- adequately funding courts to respond to delays and reducing backlog rather than amending laws and procedures to enhance procedural expediency at the expense of victims' right to participate at key parts of the justice process
- mandatory trauma-informed training for judicial officers featuring victim-survivor voices and their lived experience of the criminal justice system
- implementing training and education for defence and prosecution lawyers in relation to the rights and experiences of victims of crime during the criminal trial process and addressing problematic attitudes towards gender-based violence.

### 3. Ensuring a trauma-informed service system for victims of crime by:

- timely and full implementation of all recommendations from the Victorian Law Reform Commission's (VLRC) 2018 review of the *Victims of Crime Assistance Act 1996* to deliver a financial assistance scheme that places victims' needs at its centre
- government commitment to fund the enhanced victim support model outlined in *Strengthening Victoria's Victim Support System: Victim Services Review*, including the enhanced response for bereaved families and a new, dedicated legal service for victims of crime
- government commitment to create a dedicated, state-funded legal service for victims of crime with funding to assist victims with the full range of complex legal issues that arise as a result of victimisation
- expansion of alternative justice options, including restorative justice, underpinned by statewide standards and minimum training and accreditation requirements for providers to ensure a victim-centred and trauma-informed approach.

### 4. Improving the justice system response to sexual assault through:

- implementation of key recommendations of the VLRC report relating to affirmative consent, an independent right to review scheme, introduction of a publicly funded legal service for victims of crime, introduction of dedicated victim advocates, and comprehensive and mandatory training for police, judicial officers and lawyers.



### Systemic advocacy on law reform and policy

In 2021–22, the Commissioner made public written submissions advocating for greater respect and recognition of victims of crime and improved practices, policies, laws and programs in the following areas:

- Submission to the Victorian Government's Consultation Paper: *Systemic Review of Police Oversight*
- Submission to the Legislative Council Legal and Social Issues Committee's Inquiry into Victoria's Criminal Justice System
- Submission to the Victorian Government's Discussion Paper: *Decriminalising Sex Work*
- Submission to the Department of Justice and Community Safety's Issues Paper: *Improving victims' experience of summary criminal proceedings*
- Submission to the VLRC Consultation Paper: *Stalking*.

The Commissioner contributed to several key law reform recommendations, proposed reforms and legislative changes to improve the justice system for victims in 2021–22, some of which are outlined below.

The VLRC's final report on improving the justice system's response to sexual offending recommended multiple reforms aligned with

the Commissioner's recommendations and advocacy, including:

- affirmative consent
- alternative reporting options for victims of sexual assault
- a victim's right to review scheme
- a publicly funded legal service for victims of crime, with that legal service also providing separate, independent legal representation at key points in the justice process
- introduction of dedicated victim advocates that provide victims a single point of contact throughout the criminal justice process and their recovery journeys
- comprehensive, mandatory training for police, judicial officers and lawyers
- protections for victims in relation to access to and use of their confidential communications and medical information, and applications to lead evidence about their sexual history.

The Commissioner also welcomed the VLRC's supplementary report on sexual offences relating to 'grab and drag' conduct and its overarching finding that the law should clearly recognise this conduct and treat it more seriously. The Commissioner engaged with the VLRC on this law reform issue recommending reforms to the law that recognise the inherent harm of 'grab and drag' conduct.

## Spotlight on:

### Financial assistance for victims of crime

In September 2021, the Commissioner called on the Victorian Government to make interim improvements to the existing state-funded financial assistance scheme overseen by VOCAT, pending implementation of the new financial assistance scheme.

The Commissioner recommended that the *Victims of Crime Assistance Act 1996* (Vic) (VOCAA) be amended to remove perpetrator notification and appearance provisions.

In March 2022, changes were made to the VOCAA to prohibit VOCAT from notifying perpetrators (or alleged perpetrators) about a VOCAT hearing in certain matters.

In most of the Commissioner's public submissions throughout 2021–22, she called on the Victorian Government to urgently implement the full rollout of a new financial assistance scheme, incorporating all recommendations of the VLRC's 2018 review of the VOCAA to enhance access and equity for victims of crime. The Commissioner's advocacy on this issue was based on the high percentage of enquiries received by the Office in relation to issues experienced with VOCAT.

The Commissioner welcomed the Victorian Government's introduction of the Financial Assistance Scheme (FAS) Bill as the first step towards implementing the victim-centred financial assistance scheme envisaged by the VLRC. The new FAS will have to comply with the Victims' Charter and will come under the Commissioner's complaints and regulatory powers to ensure that any breaches of Charter principles can be addressed, which is not currently possible with VOCAT.

### Parliamentary Committee<sup>4</sup> Inquiry into Victoria's Criminal Justice System

In September 2021, the Commissioner participated in the Inquiry into Victoria's Criminal Justice System through a written submission and giving evidence at a public hearing. The Commissioner made 20 recommendations to the inquiry, all aimed at ensuring victims of crime receive adequate respect, support and entitlements.

In evidence to one of the inquiry's public hearings, the Commissioner stated that:

*"It has become starkly evident to me that change is needed to ensure that victims' rights are equal to those of the accused. We have come from a history where the interests of victims have been assumed as one and the same as the police's and the prosecution's and where victims' rights can be seen in opposition to those of the accused."*

*"I am not advocating for any erosion of the rights of the accused person but, rather, strengthened legal protections for people who are victims of crime."*

*"Fifteen years since the Charter was introduced we know that there is still a long way to go in Victoria to achieve a level of cultural change to effectively recognise victims as participants in the criminal justice system and respond appropriately to the impact of trauma, and change is still urgently needed."*

*"It is evident that the system does not adequately recognise or demonstrate respect for victims' experiences, who are not afforded the same rights as alleged offenders. And being adversely affected by crime, victims have an inherent interest in the justice system."*

<sup>4</sup> Legal and Social Issues Committee, Legislative Council, Parliament of Victoria.



Of the Commissioner's 20 recommendations to the inquiry, 10 were fully or partially adopted by the Committee and recommended in their final report, including in the key areas of:

- strengthening the practical application and use of the Victims' Charter to protect the rights of a victim of crime to participate in justice processes
- amending the *Victims' Charter* so that all victims of crime have the same entitlements to information and consultation from investigatory and prosecuting agencies, regardless of whether it is related to a summary or indictable offence
- funding for Victorian courts to update their facilities to improve standards in victim safety and wellbeing
- expansion of the proposed Victims' Legal Service to include legal support for victims of crime on procedural matters
- a victims' right to review scheme to allow victims of sexual offences to request an internal review of decisions made by police or a prosecuting agency to not file charges or discontinue prosecution
- funding for Victoria Legal Aid to conduct a pilot program which provides independent legal representation for victims of sexual offences up until the point of trial
- redesign of Victoria's existing victims of crime services model in line with the model proposed in the Victorian Government-commissioned *Strengthening Victoria's Victim Support System: Victim Services Review*.

The Commissioner's submissions and policy statements can be reviewed on the website at [victimsofcrimecommissioner.vic.gov.au/publications](https://victimsofcrimecommissioner.vic.gov.au/publications).

## 6.1 Maintaining an evidence base to drive policy and law reform

One of the Commissioner's strategic priorities is to maintain an evidence base to inform her advocacy, including which policies and reforms are required to improve responses to victims of crime, and the best mechanisms to achieve such reform.

In 2021–22, the Commissioner prioritised engagement with victims of crime with lived experience of the justice and victims' services systems to maintain her evidence base to drive policy and law reform.

As outlined in Section 3, the Commissioner and the Office undertook a large-scale consultation with victims of crime for the systemic inquiry on victim participation in the justice system.

This included:

- designing and conducting an online survey for victims of crime to understand victims' experience of participation in the justice system
- meeting with many victims of crime to hear their individual stories and hear from them about what reforms they want to see in the justice and victims' services systems.

In addition to consultation with victims of crime, the Commissioner developed an engagement strategy to liaise with key stakeholders who had insights into the justice and victims' services systems.

The Commissioner continues to gather research from various sources, including analysis of the enquiries and complaints received, trends in compliance data and information requested from prescribed agencies.

## 6.2. Undertaking the Commissioner's first systemic inquiry

The Commissioner is empowered under the Act to carry out inquiries on systemic matters that affect victims of crime and report to the Attorney-General on any such matter.

In 2015, when creating the Commissioner role in legislation, the Attorney-General at the time highlighted that the importance of the systemic inquiry function was as follows:

*"Although the commissioner will not become involved in individual cases and has no direct advocacy role in the courts, the systemic reforms that [they] will identify and promote will, in turn, promote the recognition and equality of victims before the law."*

*"While the commissioner will listen to individual victims' experiences and problems, the greatest benefit of the commissioner's role will be the ability to inquire into and report on a broad range of systemic issues across the justice system that affect victims in a range of circumstances. Our intention is that the commissioner will focus on the big-picture issues that affect significant numbers of victims."*

### Systemic inquiry on victim participation in the justice system

As outlined in last year's annual report, the Commissioner announced her first systemic inquiry in June 2021.

The inquiry's focus is victim participation in the justice system. Since 2018, victims in Victoria have been recognised under the Victims' Charter as 'participants' in criminal proceedings. But such reforms do not always translate into tangible improvements in victims' experience of the justice process.

As part of this inquiry, the Commissioner is considering whether victims feel they have been able to participate in the justice system and whether new laws or policies might be needed to help victims participate in keeping with their entitlements under the Victims' Charter.

In 2021–22, to inform the systemic inquiry, the Commissioner:

- conducted interviews with individual victims to hear about their experiences of the justice system
- spoke with key victim-survivor advisory groups and lived-experience consultants
- conducted a publicly available victims of crime survey
- interviewed a range of national and international experts on issues of relevance to victims of crime
- spoke with key stakeholders who work closely with victims of crime, including victim support professionals.

The Commissioner thanks all victims of crime who have so generously shared their time and expertise in the hope that improvements can be made to the justice and victims' services systems.

Work on the systemic inquiry will continue in 2022–23. The Commissioner has no specific budget to conduct systemic inquiries. This means that the Commissioner's Office has absorbed this additional inquiry work within its existing operating budget. For this reason, there is no fixed deadline for delivering this inquiry.



## 7. Ensuring our independence and accountability

The Commissioner's strategic goal is to invest in new thinking and approaches to ensure the comprehensive and timely delivery of functions.

The Commissioner is committed to the independence of the role from the justice and victims' services systems.

The Commissioner acts on feedback to continuously improve the effectiveness of the Office.

The Commissioner is an independent Victorian statutory officer who is responsible for complying with the standards expected of an independent regulatory authority and delivering on her legislative functions as detailed in the Act.

The Commissioner is strongly committed to instilling public confidence and trust in the integrity and independence of herself and her Office.

### Independence

Since commencing the role in 2019, the Commissioner has been committed to ensuring that victims of crime can trust the independence of the Commissioner's role as intended under the Act and with the Commissioner's status as a Special Body under the *Public Administration Act 2004*.

The Commissioner continues to ensure the integrity and independence of the role in the following ways:

- securing a new location for the office that is not co-located with any justice agencies or victims' services and ensures a trauma-informed environment for victims of crime to attend
- providing a copy of the Commissioner's annual report directly to the Attorney-General and Minister for Victim Support
- proposing legislative amendments to the Minister for Victim Support that would provide the Commissioner with employment powers in line with 15 of the other 17 Special Bodies under the *Public Administration Act 2004*
- continuing work on a website redevelopment project that designs a website that is accessible to victims of crime and provides assurance of the Commissioner's independence from government, justice agencies and victims' services.

## Accountability

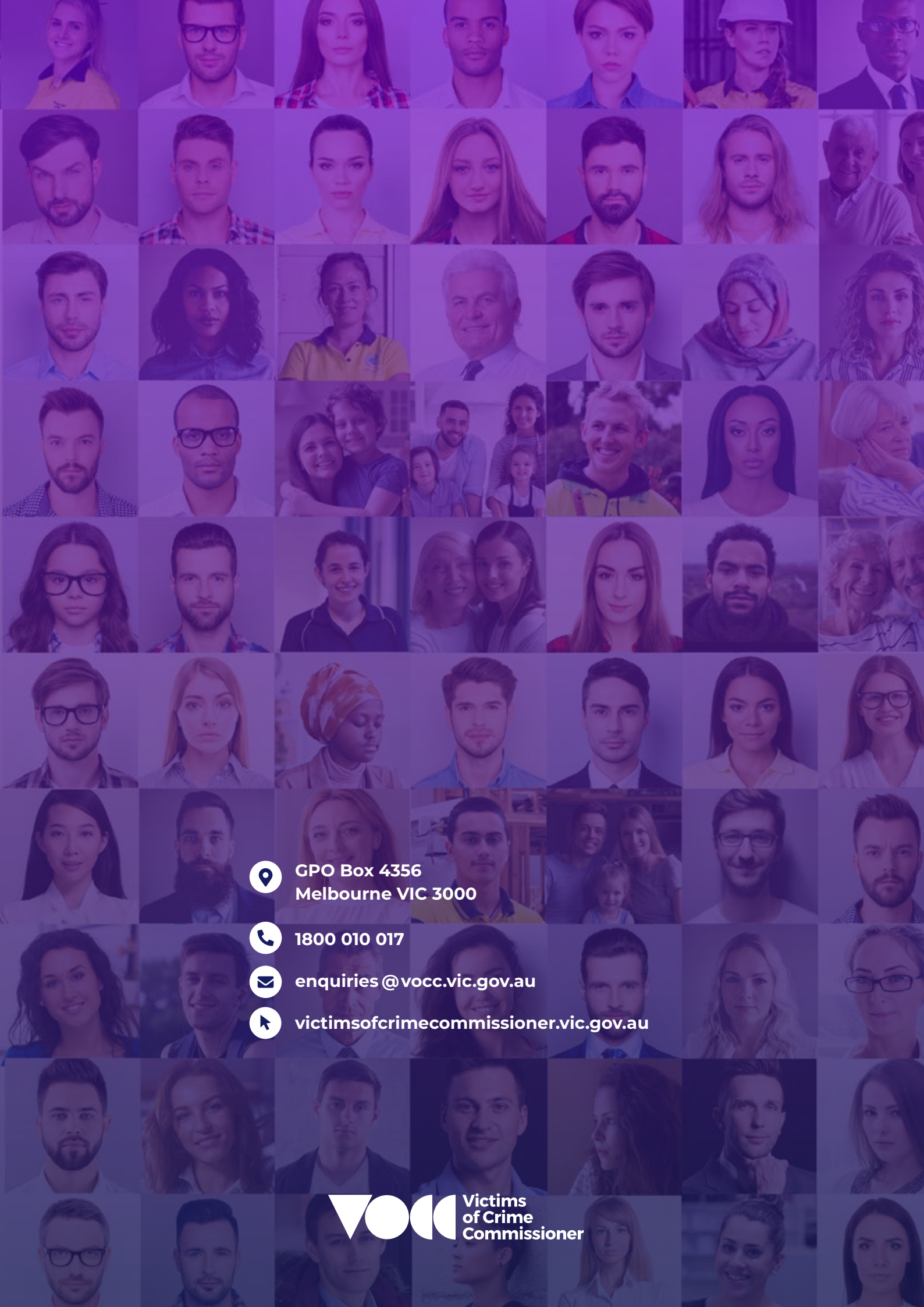
In 2021–22, the Commissioner:

- progressed work in establishing a consultative group of victims of crime to provide advice on lived experiences with the justice and victims' services systems
- made all written submissions for public consultations available on the website outlining recommendations for reforms to laws, policies and practices for victims, ensuring all members of the community have access to her policy positions
- made policy positions on key areas of victim reform available on the website to ensure transparency and accountability to members of the community
- met with, and presented to, a range of organisations and agencies (government and non-government) and Members of Parliament to discuss victims of crime issues
- gave evidence before a public inquiry in relation to the criminal justice system, with that evidence live-streamed and made publicly available via an online transcript.

## 7.1. Freedom of information

The Freedom of Information Act 1982 provides the public with a right of access to documents held by the Office. For 2021–22, there were no freedom of information applications received by the Commissioner's Office.





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**Victims  
of Crime  
Commissioner**