

MAKE A SUBMISSION TO THE REVIEW OF THE VICTIMS OF CRIME ASSISTANCE ACT 1996

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| Submission ID Number | 15 |
| Name | Tassia Michaleas |
| Organisation | Merri Health, Victims Assistance Program |

Chapter 5: Eligibility for assistance

The victim categories

1 How do the victim categories in the Act impact on people applying to VOCAT for financial assistance?

- The terms primary, secondary and related victims can imply hierarchical correlation to how victims are impacted by a crime. This has resulted in some victims feeling distressed about the level of impact they have experienced when not being identified as a primary victim.
- The related victim category can sometimes result in family conflict where different family members of a deceased primary victim receive VOCAT awards that are sometimes not necessarily based on the specific relationship with the victim but rather because they fall within a set list of family members.
- The gathering of requisite evidence of a family member having an 'intimate relationship' with a primary victim can prove difficult and can be distressing. An example is where there is a same sex or defacto relationships.

2 Should the victim categories in the Act be amended? If so, what changes should be made to the Act?

- Definitions of related victims are narrow and do not adequately recognise contemporary notions of 'family'. For example, some victims told of cases where child victims (in particular step children) living in the same family household were eligible for different VOCAT awards. Another example being the notion of 'family' as defined for Aboriginal or Torres Strait Islander families is not often considered within the definition of primary victim.
- Victim's categories can often operate to exclude those who most require assistance. For example, those who are exposed to violence (children being most vulnerable) often miss out on

assistance. This has resulted in circumstances where the primary victim has enough support and assistance and does not require a VOCAT award, but their children might require more assistance and are not eligible, or if the child is the primary victim the parents may require support but are not eligible.

The definition of an ‘act of violence’

3 How does the definition of ‘act of violence’ in the Act impact on people applying to VOCAT for financial assistance?

- The delay with immediate safety costs through VOCAT can have considerable negative implications on a victim’s recovery. The Victims Assistance Programs should be funded to provide immediate financial assistance to victims and VOCAT should be used for less urgent special financial assistance.
- Further outlined in response to Q4 and Q5.

4 Should the definition of ‘act of violence’ in the Act be amended to include other offences? If so, what offences should be included?

- The definition of ‘act of violence’ should be reformed to address the contemporary understanding of violence, including property damage occurring in the context of that violence.
- The definition of family violence in the Family Violence Protection Act 2008 is much broader than the narrow definition of ‘act of violence’ in the Victims of Crime Assistance Act 1997 (VIC) (VOCAA). This leads to inconsistencies and does not acknowledge the complexity of some violent crimes, particularly in relation to family violence.

5 Should the definition of ‘act of violence’ in the Act be amended to include non-criminal behaviour? If so, what forms of non-criminal behaviour should be included?

- There is some need for ‘middle ground’ for reviewing non-criminal behavior similar to family violence intervention orders which recognise threats and property damage.

The definition of ‘injury’

6 How does the definition of ‘injury’ in the Act impact on people applying to VOCAT for financial assistance?

- The need for victims to establish an ‘injury’ as defined in the Victims of Crime Assistance Act 1997 (VIC) can create barriers for victims of violent crime, particularly those living in regional, remote or isolated parts of Victoria. In the absence of a physical injury, victims are required to submit a report from a

psychologist, psychiatrist or other medical practitioner to prove a psychological injury. • The need to attend a psychologist to prove an 'injury' for those who are not ready to access counselling, or who have supports in place that are not approved by VOCAT can be extremely problematic for some victims. This is particularly problematic for those living in regional, remote or isolated parts of Victoria, where the cost of practitioners exceeds the current reimbursable amount available via VOCAT and accessibility to these practitioners is limited. •

The requirement to establish a diagnosable disorder for victims who have a psychological injury is in opposition to the recovery model. The purpose of principles of recovery oriented mental health practice is to ensure that mental health services are being delivered in a way that supports the recovery of mental health consumers and empowers individuals so they recognise that they are at the centre of the care they receive with recovery as the goal. • Related victims currently do not need to prove they have sustained an injury in order to be eligible for an award of distress as the presumption is made that the loss of a relative does have a traumatic affect. This should be extended to all victims of traumatic acts of violence.

7 Should the definition of 'injury' in the Act be amended to include other forms of harm? If so, what forms of harm should be included?

• Cumulative harm is difficult to demonstrate within current 'injury' definitions within the Victims of Crime Assistance Act 1997 (VIC). This is more clearly problematic in family violence related crimes.

8 Should the requirement for injury in the Act be removed for victims of certain crimes? If so, for which categories of victim should the requirement be removed?

• The requirement to prove an 'injury' in the Act should be removed when the act of violence is of a sexual nature, including child sexual assault, or in circumstances of family violence, including child abuse.

The causation requirement

9 How does the requirement for victims to establish that their injury was the 'direct result' of the act of violence impact on people applying to VOCAT for assistance? Should this causation requirement be amended? If so, what changes should be made to the causation requirement?

• Causation can be extremely difficult to determine in many cases. If a violent crime against the person is upheld within a criminal justice process with a conviction there should be a presumption that includes grief and stress and therefore the victim is entitled to support with their recovery regardless of other variables that have occurred in that person's life. An example is a victim of a

historical child sexual assault who is seeking support as an adult but there is a requirement to determine causation directly relating to that crime excluding other variables. Some of these variables, such as a diagnosed mental illness, criminal history or substance abuse may have been the direct result of the same crime, although may be considered as a separate causation of areas of support required by client.

Chapter 6: Assistance available

Quantum of awards

Total financial assistance available

10 Are the maximum amounts of financial assistance available under the Act adequate to meet the needs of victims? If not, what should the maximum amounts be?

- The amounts required to support victims' recovery can vary significantly. For some victims they are sufficient while for others they are significantly inadequate. Flexibility based on individual circumstances with clear guidelines would assist when additional costs are required.

Cap on quantum available for related victims

11 Should the Act be amended to remove the pool of assistance for related victims? If not, should the total maximum cumulative amount of assistance available for a pool of related victims be increased?

- The sharing of a pool of assistance for related victims has resulted in many accounts of conflict within families. It is hugely problematic in our experience.
- Definitions of related victims are narrow and do not adequately recognise contemporary notions of 'family'. For example, there has been cases where child victims (in particular step children) living in the same family household were eligible for different VOCAT awards.

12 Should the Act be amended to reflect the rising cost of funerals? If so, what amendments should be made? Should funeral expenses be excluded from the total maximum cumulative amount of assistance available under the Act for a pool of related victims?

- The amount for funerals is insufficient and should be reviewed.
- Funeral expenses should be considered separately from total maximum cumulative amount of assistance
- Funeral expenses are often required quickly and there is a need to navigate the VOCAT system to obtain assistance with these costs, which puts added pressure on victims and delays payment.

The Victims Assistance Program is ideally placed to administer this funding and VOCAT is better placed to focus on less urgent financial assistance.

Categories of award

Are the current categories of award under the Act still appropriate?

13 Are the current categories of award under the Act still appropriate to meet the needs of victims of crime? If not, how should the categories of award under the Act be amended and what should be included?

- The current categories structure makes the application of a VOCAT claim inaccessible to most victims without the assistance of legal support with their application. The legal costs associated with this support substantially impacts on VOCAT total costs. We recommend restructuring the dissemination of supports so that immediate supports (particularly those that fall in the interim award category) are provided by the Victims Assistance Program.
- There is a need to simplify the application process to eliminate the requirement of a solicitor to assist with the application.

Requirement for certain expenses to be 'reasonable'

14 Is it appropriate for the Act to require that the costs for certain expenses, such as counselling services, be reasonable? If not, what changes should be made to the Act?

- Seeking support for counselling costs through the VOCAT process can be difficult for victims to navigate particularly when they are also often involved in other criminal justice processes, such as criminal trials as witnesses, family court, intervention order etc.
- Navigating the VOCAT system is time consuming and currently complex and requires the need for the far majority of applicants to seek legal support with their application. This increases the costs that VOCAT are required to cover with this process.
- The Victims Assistance Program is ideally placed to support victims with counselling. VOCAT counselling funds should be redirected to the Victims Assistance Programs across the state to disseminate to victims. This would simplify the process for victims and make this process timelier.
- It is difficult to expect that costs for certain expenses be reasonable as this has an inherent expectation that the experiences of victims are comparable/similar. Therefore a reasonable test should not apply.

Additional awards to assist recovery and the need for 'exceptional circumstances'

15 Is it appropriate for the Act to limit awards for recovery expenses to 'exceptional circumstances'? If not, what changes should be made to the Act?

- Over time VOCAT has adopted a more conservative view of the interpretation of 'exceptional circumstances' and is varied depending on the tribunal member making the determination. This has led to discrepancies in awards made, where consistency and equity should be standard. Clearer legislative guidelines to guide the determination of what is a 'reasonable expense' are recommended. When victims become aware that those in a similar circumstance to them received a very different award it has given rise to victims feeling less worthy or causing more harm to their recovery.
- It is also recommended that sitting members/magistrates be supported to ensure that their understanding of Victimology and impacts of crime is in line with current research and community values.

16 In addition to the financial assistance available under the Act, are there other ways to promote the recovery of victims from the effects of crime? If so, is there a need for these other ways to be supported by the Act?

- A client centred approach to what recovery needs are required is the most effective model. Many victims have a preference to alternative models of treatment or support that falls outside current guidelines. A more flexible client centred approach to support costs for recovery is in the best interest of the victims.

Interim awards

17 Are the interim awards available under the Act adequate to meet victims' needs including with respect to quantum and timeliness? If not, how should they be improved?

- The Victims Assistance Program is ideally placed to support clients with immediate safety costs. VOCAT interim funds should be redirected to the Victims Assistance Programs across the state to disseminate to victims. This would simplify the process for victims and make this process more timely and accessible for victims. This would also eliminate the additional cost of a lawyer to assist victims with their application.

Limitations of the special financial assistance provision

Recognising cumulative harm

18 Should the special financial assistance formula be amended to take into account the cumulative harm of a series of related criminal acts? If so, how should the formula be amended?

- Victims that have been subjected to pervasive and ongoing violence over a significant period of time are currently often restricted by the eligible category they can claim. This is often the result of the fact that the only reported offence is not the most serious offence that has occurred. Where significant trauma is established they should be considered eligible for Category A offence where pervasive and ongoing violence has occurred. This is particularly relevant for victims of sexual-related offences and victims of family violence.

19 Should the special financial assistance formula be amended to take into account the experiences of vulnerable victims, including child victims, elderly victims, victims with disability and victims of an act of violence perpetrated by someone in a position of power, trust or authority? If so, how should the special financial assistance formula be amended?

- Our experience in working with vulnerable clients is that their reaction to a violent crime is exacerbated and their ability to recover hindered as a result of their vulnerabilities. The current formula focuses on the offence committed and should acknowledge the victim to whom the crime was committed against and their personal circumstances.

20 Who should be eligible for special financial assistance under the Act?

- Special financial assistance formula does not recognise each victim's unique experiences of crime and personal circumstances or recovery needs.

VOCAT discretion and the prescribing of minimum and maximum amounts for each category of special financial assistance

21 Should the prescribed maximum and minimum amounts of special financial assistance be removed and replaced with one amount for each category? If so, what changes should be made to the Act and what should the amounts be?

- We support the removal of a minimum or maximum amount for categories of Special Financial Assistance, and recommend the maximum amount be adopted in each circumstance. Those who currently are not awarded the maximum amount are often left feeling less worthy than others who had experienced the same crime in the past.

The adequacy of amounts of special financial assistance available

22 Should the amounts of special financial assistance in the Act be increased? If so, what should the amounts be?

- The special financial assistance formula does not recognise each victim's unique experiences of crime and personal circumstances or recovery needs.

Treatment of 'related criminal acts'

23 Should the definition of 'related criminal acts' be amended to have regard to the cumulative harm of long-term abuse? If so, what should the definition be?

- Harm caused by many forms of violence, particularly family violence and sexual offences, is more pervasive and broader than harm attributed to a single act. Violence can often be a pattern of abuse that involves control and coercion by a close family member, committed over a period of time. Victims subjected to this level of pervasive violence may require more substantial support to assist with their recovery than victims experiencing one instance of violence and this should be reflected in the Act. The impact of violence is all encompassing; it can affect every aspect of life, including financial security, housing, social connections, and emotional and mental wellbeing. This can be exacerbated where a victim has other vulnerabilities.

24 Should the Act be amended to give victims an opportunity to object if claims are to be treated as 'related'?

- The Act should be amended to give victims an opportunity to object if claims are to be treated as related or be central to the decision if matters are to be considered as inclusive of related matters.

25 Should there be a higher maximum for awards of financial assistance under the Act for victims of a series of related criminal acts? If so, what changes should be made to the Act?

- A client centred approach to what recovery needs are required is the most effective model. Many victims have a preference for alternative models of treatment or support that falls outside current guidelines. A more flexible client centred approach to support costs for recovery is in the best interest of the victims.

Chapter 7 Time limits for making an application

Is the time limit a barrier for victims of crime?

Increasing the application time limit

26 Is the two-year time limit to make an application to VOCAT under s29 of the Act still appropriate? If not, what would be an appropriate application time limit? Alternatively, should different application time limits apply for different types of crime?

- Extensions of time are frequently granted by VOCAT but despite this many victims choose not to submit an application due to the mere existence of a time limit.
- Significant resources can be diverted away from Victims Assistance Program case work to support the gathering of evidence for an extension of time.
- Many victims of crime do not know about their eligibility and their lives can often be complex and chaotic for some time after the crime and they often struggle to manage the bureaucratic process within the two year time frame.

Removing the application time limit

27 Should some types of crime be excluded from application time limit provisions entirely? Should some time limits start after a victim turns 18? Alternatively, should some components of victim support and financial assistance not have a time limit?

- A two year time frame should be arbitrary and no time limit imposed; rather the scheme should be evidence based.

Granting an extension of time—is there a need for additional considerations?

28 Are the factors VOCAT may currently consider in determining whether to hear an application out of time sufficient? Should other factors be included in the Act? If so, what additional factors should be included?

- Time limits should be removed for victims of childhood sexual assault, child abuse, sexual assault and family violence. It should also take into consideration other vulnerabilities of victims.

Improving transparency in the decision-making process

29 Should VOCAT be required to publish data and reasons for decisions made in relation to section 29 of the Act? If yes, what data should be provided and how should it be published?

- There is a need for equity and consistency in awards. There should be more of an onus on Tribunal members to clearly summarise their reasoning for

decisions. • The victim should have some choice on decisions to publish data in relation to their matter.

Chapter 8 Making an award Requirement to report to police within reasonable time

Removing the requirement to report to police entirely

30 Should the requirement to report incidents to police be explicitly excluded for some types of crime? Alternatively, should reports made by victims to other professionals or agencies be recognised? If so, how would this work in practice?

- Many sexual assault victims are reluctant to report to the police and at times when they have tried to report, police have refused to take their statement.
- The requirement to report to police relies on victims having a good experience with police, and this is not always the case. Some family violence or sexual assault victims have not had a positive experience with police in the past and do not want a prosecution pursued.
- Victims should be able to report to an expanded range of professionals and not just to police.
- The tribunal should recognise that in some matters, particularly family violence and sexual assaults, there will often be delays with reporting to police.
- The most vulnerable members of our community are less likely to report to police.
- A further barrier is where a victim has already reported to a support worker and does not wish to re-tell their story to police just to be eligible for VOCAT. Some victims do not want the alleged perpetrator to be prosecuted or for a prosecution process to commence.

Requirement to provide reasonable assistance to police and prosecution

Removing the requirement to provide reasonable assistance for some victims

31 Should the requirement to provide reasonable assistance to police and prosecution be explicitly excluded for some categories of victim? If yes, what categories?

- See responses noted in Q30

Specifying additional factors for consideration in determining reasonable assistance

32 How do the 'reasonable assistance' requirements impact on victims of crime?

- The 'reasonable assistance' requirement can result in re-traumatisation of the victim. The process is not victim centric and favours the rights of the accused.

33 Should the Act be amended to improve the operation of the 'reasonable assistance' provisions for victims of crime? If so, what changes should be made to the Act?

- The 'reasonable assistance' provision needs to be reviewed with a victim centric framework.

Character and behaviour considerations

Providing more guidance in the Act about relevant section 54 factors

34 What are the effects of the section 54 considerations for victims? Are they operating fairly and appropriately? Should the Act continue to consider the 'character and the behaviour' of the victim 'at any time' as currently required under section 54 (a) of the Act, or at all? If not what changes should be made to the Act to address this?

- Irrelevant character and behaviour considerations can sometimes be used by VOCAT to refuse or reduce awards and these practices should be considered unfair.
- VOCAT can sometimes deem past criminal offending as related to the current act of violence despite support services seeing no such correlation which has an effect of holding the victim responsible for their own victimisation.
- VOCAT should not require victims to be the 'perfect victim', which has resulted in the system being less supportive of people who are already vulnerable.

Removing consideration of some section 54 factors

35 Are there some section 54 factors, such as whether the applicant provoked the act of violence or the applicant's past criminal record, which should no longer be relevant for the consideration of award applications?

- Allowing the tribunal to have regard to broad character and behaviours can give rise to the potential for bias and possible unfairness. The assessment of such considerations is subjective and that there can be a big disparity in views and approaches between different tribunal members. Although decisions can be appealed the costs of pursuing an appeal are prohibitive.
- The current systems complexity means victims are reliant on legal support, particularly for complex matters. Some lawyers have withdrawn their services for VOCAT matters because the cost for running the case would exceed the reimbursement amounts available under the VOCAT scheme. This leaves the victim with no avenue to pursue financial support for recovery though VOCAT.
- Provocation is

no longer applicable as a defense in the criminal law so it may be contradictory to include it here.

Removing the perpetrator benefit provisions

36 How do the perpetrator benefit provisions under section 54 of the Act currently affect some categories of victim? Are these provisions operating fairly and appropriately? If not, what changes should be made to the Act to address this?

- The thought of a perpetrator being notified or invited to participate in a hearing is enough to deter many genuine legitimate victims from making an application.
- Particular crime such as family violence and crimes of a sexual nature should have an exclusion of perpetrator notification.
- A victim centric approach should be adopted that excludes any notification of a perpetrator. If notification to a perpetrator is to be upheld as a process in the system, it should be with a notification only occurring in exceptional circumstance, with victims being central to decisions about this.

Chapter 9 Review, variation and refund of awards

Amending the variation 'window'

37 Should the six-year time period for variation of an award be extended to account for victims of crime with long-term needs? If yes, how long should the time limit be extended and should this be for specific crimes or specific types of award only?

- The need to assist victims of crime should not have an expiry date. Each victim's recovery is unique and dependent upon their own circumstances. If a victim can provide adequate proof of a link between their current need for assistance and the act of violence there should be no limitation to the variations being sought.

Reducing the administrative burden and delay in seeking variations

38 How does the variation process impact on victims of crime?

- The very nature of the 'tribunal' model places victims in a position where they must defend or 'prove' themselves. Many victims see VOCAT as an adversarial process, with some tribunal members being 'cold' to victims and the formal and legalistic nature of the VOCAT process attributes to this lack of 'warmth'.
- It would be beneficial to the victim experience to have the setting amended to look more like a round table conference, such as in the Koori court or Youth Justice Group Conferences.

39 Is there a need to make the variation process more accessible and timely for victims? If so, what changes should be made to the Act and/or VOCAT processes?

- The need to have legal representation due to the complexity of the current model is required. Instead a 'central point' of contact model would make an easier process for victims.
- Given that the Victims Assistance Program already administers brokerage funds to support victims' immediate needs, money currently provided by VOCAT for legal expenses could instead be provided to victims via the Victims Assistance Program. A considerable amount of the Victims Assistance Programs resources are taken up by assisting victims to navigate the VOCAT process and it would be better if these resources could instead be re-directed to the Victims Assistance Program to fund victim support and make financial assistance payments.
- The Victims Assistance already has limited brokerage to assist victims with immediate safety and practical needs. These funds are often pushed to their limits due to VOCAT delays in awards or other barriers to accessing VOCAT.

Review and refund provisions

40 In what circumstances are VOCAT awards refunded? Is it appropriate for the Act to require the refund of awards in certain circumstances and if so, in what circumstances?

- The current scheme can result in some lawyers and psychologists making significant amounts of money out of the scheme and often more than the victim is entitled to.
- Many experienced and skilled psychologists or counsellors will not take on VOCAT work due to delays and complexities with payment from VOCAT. There have been incidents where it has taken up to six years to receive reimbursement for expenses through VOCAT.

41 When might victims seek review of a VOCAT award? Are there any barriers to seeking a review of an award? If so, how should these barriers be addressed?

- See responses in prior questions.

Chapter 10 Timeliness of awards

Practice Direction to expedite decision making

42 Is there a need to amend section 32(3) and section 41 of the Act to clarify the need for speedy determinations? Alternatively, would an appropriate Practice Direction provide sufficient guidance?

- There is a need to streamline the VOCAT process so victims of crime are not continually re-traumatised by having to retell their story, navigate a complex legal system and seek various supports to navigate the process. The Victims Assistance Program is best placed to administer the state-funded financial assistance for victims of a violent crime.

Triaging, co-location or specialist streams

43 What benefits would be achieved for victims if initiatives such as triaging, co-location or specialist streams were introduced?

- Regional, remote communities and isolated individuals are disadvantaged in accessing the current system, whereas co-location, and/or specialist streams could have benefits to improving access for victims. The Victims Assistance Program currently works on a co-location model and could be ideally placed to administer immediate support to victims if VOCAT funds were redirected to the Victims Assistance Program.

An administrative model

44 As an alternative approach, should an administrative model be adopted? If yes, what benefits would be achieved for victims through the adoption of an administrative model? How would this work in practice? What would be the disadvantages of an administrative model?

- See response in Q42 • Adoption of an administrative model inclusive of the Victims Assistance Program administering immediate support to victims, would minimise re-traumatisation of victims and provide a more timely process of support for recovery.

Hearing VOCAT matters during other civil and criminal hearings

45 What benefits would be achieved by enabling all magistrates to make interim VOCAT awards at the same time as hearing other matters? How would this work in practice? Would there be disadvantages?

- Some caution is required when considering the hearing of other matters in line with VOCAT. The current criminal justice, intervention order and family court systems would have the perpetrator involved in these matters and information gathered for VOCAT application should not be able to be shared with perpetrator.

Evidentiary requirements for counselling and medical expenses

46 Should applicants be able to support their applications with documentary evidence other than medical and psychological reports? If so, what other documentation should applicants be able to provide?

- Victims should be able to submit a range of evidence from support workers already involved as part of their evidence brief within their application.

47 Should more assistance be provided by VOCAT to help victims satisfy the evidentiary requirements?

- The Victims Assistance Program (VAP) is best placed to administer the assistance for victims of a violent crime in meeting VOCATs evidentiary requirements. A considerable amount of the Victims Assistance Programs resources are already taken up by assisting victims to navigate the VOCAT process and VAP is ideally placed with strengthened funding to further support victims with their application.

Chapter 11 VOCAT hearings Perpetrator notification and right to appear

Removing the perpetrator notification provision

48 How do the rights of perpetrators—to be notified or appear—fit with the purpose of the Act, which is to provide assistance to victims of crime?

- The thought of a perpetrator being notified or invited to participate in a hearing is enough to deter many genuine legitimate victims in making an application. • Particular crime such as family violence and crimes of a sexual nature should have an exclusion of perpetrator notification. • A victim centric approach should be adopted that excludes any notification of perpetrator. If this is to be withheld as a process in the system it should be with a perpetration only occurring in exceptional circumstance with victims being central to contesting this.

49 Should the Act be amended to include a legislative presumption against perpetrator notification? If so, how should the Act be amended?

- See Q48 response

Enhancing safety considerations in the Act

50 Should the notification provision be amended to recognise the safety concerns of victims more specifically? If so, what changes should be made to the Act?

- Safety is paramount in our assessment of all victims referred to the Victims Assistance Program, and should be within VOCAT. Notification of a perpetrator can definitely compromise a victim's safety, both physical and psychological and safety should be an unquestionable consideration.

51 Given the aim of the Act is to assist victims of crime, should the Act be amended to include a guiding principle protecting victims from undue trauma, intimidation or distress during VOCAT hearings?

- Protecting Victims from undue trauma, intimidation or distress during VOCAT hearings should be a guiding principle. Currently VOCAT outcomes more often occur without a hearing. The hearing process in itself is usually a traumatic, intimidating or distressing event for a victim. A less formal, non-judicial process would be a more effective way to administer a State funding victim's scheme. A senior public servant or government official could be a better option to final decisions and result in an improved process for victims.

Evidentiary and procedural protections for vulnerable witnesses

52 Should the Act be amended to include increased protections for victims during VOCAT hearings? If so, what procedural and evidentiary protections should be provided?

- See response noted in Q51

Restricting access to and the use of VOCAT records

53 Should VOCAT application materials be admissible as evidence in criminal or family law proceedings? If not, how should the Act be amended?

- The length of criminal justice process with convictions has meant there has been a need for victims to navigate VOCAT for immediate support needs prior to the completion of the criminal proceedings. This has meant that their application and files by support services can be subpoenaed. This has resulted in victims being retraumatized by perpetrator having access to their personal information. The cost to contest these subpoenas has also greatly impacted on victims and support services working with them. As the victims are seeking this support for their recovery and should be deemed 'therapeutic', it should not be admissible in the criminal or family law proceedings.

Improving the transparency and consistency of VOCAT processes and decision making

54 How could transparency and consistency in VOCAT processes and decision making be improved?

- Over time VOCAT has adopted a more conservative view of the interpretation of 'exceptional circumstances' and is varied depending on tribunal member making the determination. This has led to discrepancies in awards made, where consistency and equity should be standard. Clearer legislative guidelines to guide the determination of what is a 'reasonable expense' is recommended. When victims become aware that those in a similar circumstance to themselves received a very different award it has given rise to victims feeling less worthy or causing more harm to their recovery.

Chapter 12 Awareness of VOCAT and accessibility

Combining victim support and the financial assistance scheme

55 How do victims learn about the availability of VOCAT? When, how and by whom should victims be informed of their potential eligibility under the Act?

- Very little public knowledge is currently available about VOCAT or its eligibility requirements. There is significant onus on the Victims Assistance program (VAP) and Victoria Police to ensure that all victims of crime are aware of their rights regarding VOCAT.

56 Should the provision of state-funded financial assistance be integrated with victim support services? If so, how should financial assistance be integrated with victim support?

- Simplify system to make this more accessible to victims with a non-judicial, administrative process
- Redirect funds for the immediate needs of victims recovery to the Victims Assistance Program (VAP)
- Special financial assistance can involve a senior public servant or government official in a less formal, non-judicial process and could be a better option to final decisions and result in an improved process for victims.
- VAP should have advanced funding to promote general community awareness of recovery support available to victims of a violence crime

Reducing reliance on lawyers

57 Is the VOCAT system easy to navigate without legal representation? If not, why? Should the system be changed to make it more accessible for victims without legal representation? If so, what changes should be made to the Act and/or VOCAT processes?

- There is a need to simplifying application process to eliminate requirement of a solicitor to assist with application.
- The current VOCAT system makes the application of a VOCAT claim inaccessible to most victims without the assistance of legal support with their application. The legal costs

associated with this support substantially impacts on VOCAT total costs. Restructuring dissemination of supports so immediate supports (particularly those that fall in the interim award category) to the Victims assistance Program would make this process more accessible for victims. • The current systems complexity is reliant on legal support, particularly for complex matters. Some lawyers have withdrawn their services for VOCAT matter because the cost for running the case would exceed the reimbursement amounts available under the VOCAT scheme. This leaves the victim with no avenue to pursue financial support for recovery through VOCAT.

Providing victim-friendly and accessible information

58 Is there a need to make VOCAT more accessible for victims? If so, what changes should be made to the Act and/or VOCAT processes to make VOCAT more accessible for victims, including those speaking languages other than English?

- Outlined in responses above

Chapter 13 Victim needs

59 Having regard to the impacts of crime on victims, what are victims' needs and how should they be met through a state-funded financial assistance scheme?

- Outlined in responses above

Chapter 14 Approach 1: Reforming the existing scheme The purpose and objectives of the Act

60 Is the Act achieving its purpose and objectives? If not, in what respects?

- Outlined in responses above

Amend the Act to focus on support

61 Should the focus of the Act be on supporting victims of crime rather than on assisting their recovery? If so, what changes should be made to the Act?

- Outlined in responses above

Recognising appropriate people as victims

62 Does the Act recognise appropriate people as victims? If not, what changes should be made to the Act to better recognise appropriate people as victims? Are there circumstances where some victims should not be recognised by the scheme? If so, in what circumstances?

- Outlined in responses above

Amend the Act to remove the focus on ‘certain victims of crime’

63 Is it appropriate under the Act that only ‘certain victims of crime’ are entitled to financial assistance as a symbolic expression of the community’s sympathy, condolence and recognition? If so, how should this be expressed in the Act?

- Outlined in responses above

Reconceiving ‘financial assistance’ and ‘special financial assistance’

64 Would ‘special financial assistance’ be better classified as a ‘recognition payment’ as in the New South Wales and Australian Capital Territory schemes?

- Outlined in responses above

Requiring offenders to contribute

65 What is the practical operation of section 51 of the Act which enables a victim to assign their rights to the state to recover from the offender? Should a State-funded financial assistance scheme retain ‘offender recovery’ provisions as a parallel process to other reparation mechanisms?

- Yes a victims’ levy payment by offenders should be imposed.

66 Should Victoria’s state-funded financial assistance scheme be amended to include a victims’ levy payable by offenders? If so, how and on whom should the levy be imposed?

- Outlined in responses above

Chapter 15 Approach 2: Is there a need for a different model?

Is the current scheme meeting the outcomes specified in the supplementary terms of reference?

67 Is the current scheme meeting the outcomes for victims specified in the supplementary terms of reference, namely, does it achieve outcomes for victims that: (a) are fair, equitable and timely(b) are consistent and predictable(c) minimise trauma for victims and maximise the therapeutic effect for victims?

- Outlined in responses above

68 Is the current scheme efficient and sustainable for the state?

- Outlined in responses above

69 Are there other models that would deliver assistance more effectively? If so, which?

- Outlined in responses above

Financial assistance as part of case management /victim support

70 Is state-funded financial assistance to victims of crime better provided as part of victim support case management? If so, why, and how should this operate?

- Outlined in responses above outlining the Victims Assistance Program as a central model that should be enhanced to administer a state-funded financial assistance program to victims of a violent crime.

71 Alternatively, should some components of Victoria's state-funded financial assistance scheme for victims of crime be provided as part of victim support case management and others by a judicial or other independent decision maker? If so, what components, and how should this operate?

- Outlined in responses above outlining the Victims Assistance Program as a central model that should be enhanced to administer a state-funded financial assistance program to victims of a violent crime.

Financial assistance as a restorative justice opportunity

72 Should restorative justice principles be further considered as a voluntary component of a state-funded financial assistance scheme? Alternatively, should a victims' financial assistance scheme provide a more direct pathway to restorative justice practices constituted elsewhere in the justice system?

- Restorative justice practices should be a separate matter and not tried to a state-funded financial assistance scheme.

A new decision maker?

73 What are the benefits and disadvantages of retaining judicial decision making for the provision of state-funded financial assistance for victims of crime? Are there alternative decision-making models that should be considered? If so, which?

- Outlined in responses above

74 Should hearings remain an available option, either at the request of the victim or the decision-maker?

A hybrid model should be employed to administer a state funded support and assistance for victims of crime and outlined as follows:

- Simplify system to make this more accessible to victims with a non-judicial, administrative process
- Redirect funds for the immediate needs of victims recovery to the Victims Assistance Program (VAP)
- Special financial assistance can involve a senior public servant or government official in a less formal, non-judicial process and could be a better option to final decisions and result in an improved process for victims.
- VAP should have advanced funding to promote general community awareness of recovery support available to victims of a violence crime

Victim financial assistance as a specialist field of expertise

75 Should state-funded financial assistance to victims of crime be undertaken by other specialised decision makers, to improve knowledge and awareness of victim needs and to enable a trauma-informed approach? If so, how should this operate?

- Outlined in responses above