

The related victim category and the treatment of domestic partners

1. A 'related victim' is defined as a close family member of, a dependant of, or someone in an intimate personal relationship with the primary victim.¹ The definition of 'close family member' only refers to the primary victim's spouse, which is in turn defined as 'a person to whom the person is married.'² Domestic partners could apply as a related victim on the basis that they had an 'intimate personal relationship' with the primary victim³ but, as the consultation paper rightly points out, there is no guarantee that domestic partners, including those in a registered relationship, will be recognised as related victims. This is out-of-step with contemporary values and, moreover, unfairly discriminates against LGBTIQ partners, who are currently unable to marry under Australian law or may choose not to marry. In addition, some of the factors that VCAT has held as indicia of an intimate personal relationship, such as sexual and emotional commitment,⁴ may not be present in asexual or aromantic relationships.
2. The consultation paper suggests that the definition of 'close family member' could be amended to explicitly include domestic partners. However, there are a number of different definitions of 'domestic partner' used throughout Victorian law,⁵ which is one of the faults of de facto couple recognition in the state. If domestic partners are to be included as close family members, the definition of domestic partner should not require such a person to have lived with the primary victim for two years.⁶ The domestic partner label is also unlikely to cover people in polyamorous relationships which need to be accounted for and protected.

Recommendation: The Act should be amended by including 'domestic partner' in the definition of 'close family member' whilst maintaining the category of 'intimate personal relationship'. The definition of 'domestic partner' should not include a time or living together requirement and be inclusive of LGBTIQ people and people in polyamorous relationships.

Time limit barriers for victims of crime

1. There is a two-year time limit for applications for financial assistance.⁷ In addition, there is a prior requirement that an act of violence be reported to the police within a reasonable time.⁸
2. As the consultation paper notes, the time limit for making an application can be a barrier for more vulnerable people such as members of the LGBTIQ community. In particular, LGBTIQ people are more reluctant to report violence to police because of actual or perceived discrimination and harassment. It is notable that the factors that

¹ *Victims of Crime Assistance Act 1996* s 11(1).

² *Victims of Crime Assistance Act 1996* s 3(1).

³ *Reid v Victims of Crime Assistance Tribunal* [2002] VCT 373 (24 May 2002) [11].

⁴ *Reid v Victims of Crime Assistance Tribunal* [2002] VCT 373 (24 May 2002) [15].

⁵ See *Statute Law Amendment (Relationships) Act 2001*; *Relationships Act 2008* Sch 1.

⁶ See, for example, *Administration and Probate Act 1958* s 3(1).

⁷ *Victims of Crime Assistance Act 1996* s 29.

⁸ *Victims of Crime Assistance Act 1996* s 52(a)(i).

are to be taken into account in determining whether an act of violence was reported to police within a reasonable time or whether an out-of-time application ought not to be struck out do not include the sexual orientation, gender identity or intersex status of the victim.⁹ For example, LGBTIQ people are less likely to report intimate partner violence because of a fear of ‘outing’. This applies not only to police, but also to medical professionals. In part, this has led to the development of peer-driven reporting mechanisms, such as that offered by the Anti-Violence Project.

Recommendation: The Act should be amended to:

- include the sexual orientation, gender identity or intersex status of the victim as a factor to be taken into account in determining whether an act of violence was reported to police within a reasonable time or whether an out-of-time application ought not to be struck out
- provide for alternative reporting provisions, including reporting to professionals, agencies and peer support groups

Victims of Crime Assistance Act 1996 ss 29(3), 53.