



Government of **Western Australia**  
Department of **Justice**  
**Commissioner for Victims of Crime**

# **Statutory Review of the Victims of Crime Act 1994**

## **Discussion Paper**

### **August 2018**

## Contents

1	The purpose of this paper .....	3
2	Issues relating to the existing provisions of the Act.....	3
2.1	Definition of 'victim' .....	3
2.2	Guidelines as to how victims should be treated .....	4
2.3	Information Sharing.....	5
3	Matters that currently fall outside the Act .....	6
3.1	A complaint mechanism specific to victims of crime.....	6
3.2	The Commissioner for Victims of Crime .....	7
3.3	The Victims of Crime Reference Group .....	9
3.4	Victim levies .....	9
3.5	Decision making responsibility where the victim is a child .....	10
	Appendix A.....	12
	Appendix B.....	16
	Appendix C.....	17
	Appendix D.....	20

## 1 The purpose of this paper

Section 6 of the *Victims of Crime Act 1994* (WA) (the Act) requires that the operation and effectiveness of the Act be reviewed every five years. The Department of Justice is now carrying out such a review on behalf of the Attorney General.

This discussion paper is intended to assist stakeholders to provide input to the review. It sets out issues that will be considered during the review, and poses focus questions in relation to each issue.

The issues are divided into two categories:

- Issues relating to the existing provisions of the Act; and
- Matters that currently fall outside the Act, but could potentially be incorporated into the Act.

Issues relating to the criminal injuries compensation scheme are not addressed in this discussion paper on the basis that they are the subject of a separate consultation and review process – please refer to [www.justice.wa.gov.au](http://www.justice.wa.gov.au) for more information.

The discussion paper is intended as a guide. Submissions to the Review do not have to address all of the issues or answer all of the questions presented below.

Submissions can be made by email to [cvoc@justice.wa.gov.au](mailto:cvoc@justice.wa.gov.au) or by calling the Office of the Commissioner for Victims of Crime on 9264 9877.

The Act can be viewed online via [www.legislation.wa.gov.au](http://www.legislation.wa.gov.au).

## 2 Issues relating to the existing provisions of the Act

### 2.1 Definition of ‘victim’

Section 2 of the Act provides a number of definitions. Most significantly, it defines ‘victim’ to mean:

- A person who has suffered injury, loss or damage as a direct result of an offence, whether or not that injury, loss or damage was reasonably foreseeable by the offender; or*
- Where an offence results in a death, any member of the immediate family of the deceased.*

This definition is important because the Guidelines and information sharing provisions contained in the Act apply only to ‘victims’ as defined in section 2.

Other Acts in Western Australia use different definitions of victim (or equivalent terminology) for different legal purposes. Still more definitions can be found in victims of crime legislation in other Australian States and Territories. A comparison table of the different definitions can be found at **Appendix A**.

All of the definitions presented in the table refer to the person or persons against whom the offence is committed (the direct victim(s)). The main differences lie in the extent

to which persons who are *indirectly* affected by the offending are deemed to be 'victims'. Depending on the legislation, this may include –

- Family members of the direct victim;
- Witnesses to the offending; and
- A person who has taken out a family violence restraining order against an offender, but is not the victim of the criminal offences.

In its 2014 Report on *Enhancing Family and Domestic Violence Laws*, the Law Reform Commission of Western Australia recommended that the definition in the Act be expanded to include:

- The parent/guardian of a victim who is a child;
- A child who has been exposed to family violence committed against a family member; and
- Family members where the offence results in the permanent incapacitation of the victim.

There is unlikely to be a single approach that is appropriate in all of the legislative contexts in which the term 'victim' is used. Nevertheless, there may be opportunities to rationalise the different definitions currently in use. This could be achieved by defining different categories of victim in the Act and selectively applying those definitions in other WA laws.

### Questions

1. Is the current definition of 'victim' in the Victims of Crime Act appropriate?
2. Should the changes to the definition recommended by the Law Reform Commission be adopted?
3. Appendix A demonstrates that different WA Acts use different definitions of victim.
  - Are each of these definitions fit for the purpose for which they are used?
  - Should the definition(s) of victim contained in the Victims of Crime Act apply consistently across relevant WA legislation?

## 2.2 Guidelines as to how victims should be treated

Schedule 1 of the Act contains twelve Guidelines for the treatment of victims of crime in Western Australia. These are reproduced in full in **Appendix B**.

Section 3 of the Act provides that 'public officers and bodies' are authorised to have regard to and apply the Guidelines, and should do so to the extent that they are relevant and that it is practicable to do so.

Beyond this, the Guidelines have no legal effect. Section 3(a) provides that:

- The Guidelines do not create legally enforceable rights; and
- Failure to apply the Guidelines does not carry any legal consequences.

In addition, failure to apply the Guidelines does not provide specific grounds for a complaint to a complaints handling body.

Many of the Guidelines overlap with specific legislative rights and obligations set out in other legislation. For example, Guideline 11, which deals with the notification of the victim when the offender is released from prison, finds expression in Part 11 of the *Prisons Act 1984* (WA).

Similar Guidelines (sometimes referred to as Principles or Victims' Charters) are in force in all other Australian States and Territories other than Tasmania. As in WA, these statements do not create legally binding obligations. However, other jurisdictions seek to promote compliance by:

- Providing that non-compliance is grounds for a complaint; and
- Making it a statutory function of the Commissioner for Victims of Crime (or equivalent) to promote compliance with the Guidelines.

### Questions

4. Do the Guidelines influence the way that Government agencies interact with victims? Can you provide any specific examples of where they have been relied on or used to improve outcomes for victims?
5. What measures would you suggest to promote awareness of, and compliance with, the Guidelines?
6. What, if any, changes would you suggest to the Guidelines (reproduced in Appendix B)?

## 2.3 Information Sharing

Section 4 of the Act authorises the WA Police Force and the Director of Public Prosecutions to provide certain victim-related information to the Department of Justice for the specific purpose of facilitating access to victim support services.

The information that can be provided includes:

- The name, contact details, age and ethnicity of the victim;
- A description of the offence and related circumstances; and
- Information about the police investigation and prosecution, including the responsible police officer.

These provisions are modest in scope. They enable a limited range of agencies to share limited information for a limited purpose.

Other laws that authorise information sharing for purposes related to victims of crime include the *Prisons Act 1984* (WA) and the *Sentence Administration Act 2003* (WA), both of which authorise the provision of information to victims, and the *Children and Community Services Act 2004* (WA), which authorises information sharing for the purpose of protecting victims of family violence.

Beyond these specific regimes, the broader context is that Western Australia lacks comprehensive information sharing legislation. The State Government's Service Priority Review, which released its final report in October 2017, recommended that the Government develop legislation and processes to facilitate information sharing while protecting sensitive personal and other information.

### Questions

7. Is the Victims of Crime Act an appropriate vehicle to enhance information sharing between agencies involved in the justice system?
8. Are the existing information sharing provisions in the Victims of Crime Act working effectively?
  - Do they apply to an appropriate range of information?
  - Do they apply to an appropriate range of agencies?

## 3 Matters that currently fall outside the Act

This section of the discussion paper highlights a number of matters that are not currently legislated in WA, but could conceivably be incorporated into the Act.

### 3.1 A complaint mechanism specific to victims of crime

The Act does not create a process for dealing with complaints. Moreover, no other WA legislation creates a complaints mechanism that is specific to victims of crime. At present, a victim of crime wishing to make a complaint about a Government agency may complain:

- Directly to the agency to which the complaint relates (the recommended initial action), noting that all public authorities should have processes in place to deal with complaints about the services they provide or fund;
- To the Ombudsman of Western Australia, who has statutory responsibility for investigating complaints about WA Government departments, agencies, services and other public authorities; or
- To the Commissioner for Victims of Crime; however, the Commissioner lacks formal powers to investigate complaints and make findings.

In its 2014 Report on *Enhancing Family and Domestic Violence Laws*, the Law Reform Commission of Western Australia concluded that the establishment of a separate complaints mechanism for victims of crime is unwarranted because it would result in unnecessary duplication of existing complaints processes. However, it did recommend that the Commissioner for Victims of Crime be given the functions of assisting victims to make complaints, and monitoring trends in complaints against government agencies.

This would be similar to the approach taken under the *Commissioner for Children and Young People Act 2006 (WA)* (CCYP Act). The CCYP Act does not create a separate complaints process, but rather makes the Children's Commissioner responsible for monitoring:

- The way in which a government agency manages a complaint by a child or young person; and
- Trends in complaints made by children and young people to government agencies.

As noted previously, WA legislation does not provide a specific right to complain about a failure to uphold the 'Guidelines for how victims are to be treated.' This is in contrast to the position in most other Australian jurisdictions, under which similar guidelines are directly linked to statutory complaints processes. It also contrasts with the position under other WA Acts that contain equivalent guidelines, including the *Carers Recognition Act 2004 (WA)*, the *Mental Health Act 2014 (WA)*, and the *Disability Services Act 1993 (WA)*. In each of these cases, a failure to act in accordance with the guidelines provides specific grounds for a complaint under legislation.

### Questions

9. Are existing complaint management processes for victims of crime adequate?
10. Should the Victims of Crime Act:
  - Establish a separate complaints mechanism for victims of crime?; or
  - As recommended by the Law Reform Commission, make the Commissioner responsible for assisting victims to make complaints and monitoring trends in victim complaints?
11. Should there be a statutory right to complain about a perceived failure to uphold the Guidelines contained in Schedule 1 of the Victims of Crime Act?

## 3.2 The Commissioner for Victims of Crime

The position of Commissioner for Victims of Crime was established in July 2013. The Commissioner's functions are to:

- Advocate for and encourage good practice in the treatment of victims across Government;
- Provide a mechanism for victims to make complaints regarding Government services;
- Provide direct assistance with the preparation of criminal injuries compensation claims and victim impact statements; and
- Examine and comment on legislation impacting on victims of crime.

Neither the position nor its functions are enshrined in legislation. Instead, the Commissioner is an employee of the Department of Justice appointed by, and

responsible to, the Director General of the Department. The Commissioner is supported by a small office comprising:

- 1 FTE Legal Policy Officer
- 2 FTE Senior Policy Officer
- 1 FTE Project Officer

Within the Department, the Commissioner is not directly responsible for, or involved in, the delivery of front-line victim support services. Rather, the Commissioner is primarily concerned with systemic issues affecting victims of crime and related law reform.

The Commissioner advocates on behalf of individual victims only where the standard service response has not met the person's needs. This relies on the person initiating contact with the Commissioner or being referred by another entity (such as the Attorney General's Office or the WA Police Force).

Most Australian States and Territories have enshrined the role and functions of a Victims Commissioner in legislation. The functions of the position vary significantly between jurisdictions. A key variable is the extent to which the Commissioner provides direct assistance to individual victims of crime. Depending on the model, the Commissioner may:

- Have direct responsibility for administering victim services;
- Provide individual advocacy only where a complaint is made; or
- Focus on systemic matters such as legislation, policy and resourcing.

**Appendix C** summarises the different models that are in operation across Australia.

### Questions

12. What functions should the Commissioner for Victims of Crime perform?
13. Who should the Commissioner report to?
14. Should the position and its functions be established under the Victims of Crime Act?
15. If so, should the Commissioner be empowered to compel Government agencies to provide relevant information?
16. Should the Commissioner have standing to participate in court proceedings by:
  - a. With the authority of a victim of crime, exercising the victim's statutory rights on his or her behalf;
  - b. Presenting a community safety submission at sentencing or dangerous sexual offender proceedings; and/or
  - c. Seeking a review of a parole decision to release a life-sentenced prisoner?

### 3.3 The Victims of Crime Reference Group

The Victims of Crime Reference Group was formed in 2006 to advise the Attorney General and Government on issues affecting victims of crime in Western Australia. The Reference Group has been in abeyance since 2016 and has been disbanded pending the outcomes of the present review of the Act.

The membership of the Reference Group was evenly divided between representatives of relevant Government agencies and community members with relevant personal experience. The Government agencies represented were:

- The Department of the Attorney General (now the Department of Justice);
- The Department of Corrective Services (now the Department of Justice);
- The Department for Child Protection and Family Support (now the Department of Communities);
- The Office of the Director of Public Prosecutions;
- The Northern Metropolitan Health Service (incorporating the Women's and Newborn Health Service); and
- The WA Police Force.

From mid-2013, the Reference Group was chaired by the Commissioner for Victims of Crime. During this period, the Reference Group provided submissions to law reform processes and helped to inform the Commissioner's work plan.

Most Australian States and Territories have established similar advisory bodies in legislation. As with the former WA Reference Group, these bodies feature a mix of Government and non-Government members and are responsible for advising the Government (usually via the Attorney General) on victim-related matters.

#### Questions

17. Should the Victims of Crime Reference Group be re-established? If so,
  - a. What functions should the Reference Group perform?
  - b. Who should the Reference Group report to?
  - c. Who should be represented on the Reference Group?
  - d. Should the Reference Group be given a statutory basis?
18. Aside from the Reference Group, do you have any other suggestions for ensuring that Government decision-making is informed by victim perspectives?

### 3.4 Victim levies

A victim levy is a surcharge imposed on offenders as a way of funding victim compensation schemes, victim support services or both. All Australian States and Territories with the exception of Western Australia and Victoria have a victim levy in place. The Victorian Government is currently considering a proposal to introduce a levy.

The different models currently operating across Australia are summarised in **Appendix D**. The common objective of these schemes is to place at least some of the costs associated with supporting victims of crime onto those who are responsible for these costs.

Depending on the model, a victim levy may apply to criminal offence convictions, infringements (such as speeding fines) or both.

The advantage of imposing the levy on criminal convictions is that the conduct that gives rise to the levy (criminal offending) is directly aligned with the purpose of the levy (victim support).

However, a levy on criminal convictions may fall disproportionately on people of limited financial means, including offenders who are already unable to pay fines imposed through the sentencing process.

A levy on convictions alone would also have a relatively narrow revenue base, meaning that each offender would have to contribute a higher amount to produce the same amount of revenue. Applying a levy to infringements would give the levy a broader revenue base, but would be more difficult to justify on the grounds of restitution for past behaviour.

### Questions

19. Should WA introduce a victim's levy?
20. If so:
  - a. Should the levy apply to criminal convictions, infringements, or both?
  - b. What amount should be collected per offence/offender or infringement?

### 3.5 Decision making responsibility where the victim is a child

Where a victim of crime is a child, a question arises as to who should be permitted to exercise the victim's legal rights – the child, the person with parental responsibility in relation to the child, or another person acting in the child's best interests.

Currently, different WA Acts address this issue in different ways. For example:

- The *Sentencing Act 1995* provides for a child victim to give a victim impact statement unless, by virtue of age, he or she is 'personally incapable' of doing so. In these circumstances, another person may provide a victim impact statement on the victim's behalf if the court is satisfied that it is appropriate for the person to do so.

- The *Restraining Order Act 1997* is silent as to whether it is the child victim, or the person with parental responsibility for a child victim, who may exercise the victim's right to object to the imposition of lifetime restraining order when an offender is convicted of one of the offences listed in section 63A.
- The *Criminal Injuries Compensation Act 2003* provides that the parent of a child victim may apply for compensation on the child's behalf.

### Questions

21. Should WA legislation apply a standard test for determining whether a child is capable of personally exercising the child's legal rights as a victim of crime?
22. Should this capacity be determined on the basis of the child's age, an individualised assessment of the child's capacity, or a combination of both?

## Appendix A

### Definitions of 'victims' in relevant WA and other State/Territory legislation

Western Australian Legislation				
Act	Legislative Context	Definition of Direct Victim	Family Victim	Others
<i>Victims of Crime Act 1994 (WA)</i>	Guidelines as to how victims should be treated and information sharing provisions.	<b>Victim</b> includes a person who has suffered injury, loss or damage as a direct result of an offence, whether or not that injury, loss or damage was reasonably foreseeable by the offender	<b>Victim</b> includes any member of the immediate family of the deceased where an offence results in a death	
<i>Sentencing Act 1995 (WA)</i>	Victim impact statements	<b>Primary victim</b> includes a person against whom the offence was committed.	<b>Family victim</b> means a member of the primary victim's immediate family, regardless of whether that person has suffered personal harm as a result of the offence. Where the victim is an Aboriginal person or a Torres Strait Islander requiring care, this includes a persons regarded as a primary carer under relevant customary law.	<b>Primary victim</b> includes a person who was a witness to the offence if it included: actual or threatened violence, sexual assault, bodily harm or death
<i>Sentence Administration Act 2003 (WA)</i>	Submissions to the Prisoners Review Board	<b>Victim of an offender or prisoner</b> – as per <i>Victims of Crime Act 1994</i> (above).	<b>Victim of an offender</b> – As per <i>Victims of Crime Act 1994</i> (above).	A person protected by a <b>family violence restraining order</b> .
<i>Dangerous Sexual Offenders Act 2006 (WA)</i>	Submissions to the court; protective conditions of supervision orders; bail considerations	<b>Victim</b> means a person upon whom a serious sexual offence has been committed by a person who is or has been an offender.  <i>NB: this definition is reproduced in the provisions of the Bail Act 1982 that relate to dangerous sexual offenders.</i>		
<i>Young Offenders Act 1994 (WA)</i>	Participation in juvenile justice team process	<b>Victim</b> includes any person the juvenile justice team considers to have primarily suffered as a consequence of the offence		
	Consideration of victim statement by	<b>Victim of an offence</b> – as per <i>Victims of Crime Act 1994</i> (above)	<b>Victim of an offence</b> – as per <i>Victims of Crime Act 1994</i> (above)	

	Supervised Release Review Board			
<b>Criminal Law (Mentally Impaired Accused) Act 1996 (WA)</b>	Consideration of victim statements by Mentally Impaired Accused Review Board	<b>Victim of an alleged offence</b> – as per <i>Victims of Crime Act 1994</i> (above).	<b>Victim of an alleged offence</b> – as per <i>Victims of Crime Act 1994</i> (above).	
<b>Prisons Act 1981 (WA)</b>	Disclosure of information regarding a prisoner	<b>Victim of a prisoner</b> – as per <i>Victims of Crime Act 1994</i> (above).	<b>Victim of a prisoner</b> – <i>Victims of Crime Act 1994</i> (above).	A person protected by a <b>family violence restraining order</b> or a victim of an act that would constitute a <b>violent personal offence</b> committed by the prisoner in a family relationship
<b>Criminal Injuries Compensation Act 2003 (WA)</b>	Criminal injuries compensation	<b>Victim</b> includes a person who suffers injury, or who dies, as a consequence of the commission of an offence	<b>Close relative of a victim</b> is a parent, grandparent, step-parent, spouse, de facto partner, child, grandchild or stepchild of the victim	

### Other States and Territories

<b>Victims Rights and Support Act 2013 (NSW)</b>	Charter of Rights of victims of crime	<b>Victim of crime</b> includes a person, who suffers harm as a direct result of an act committed, or apparently committed, by another person in the course of a criminal offence	<b>Victim of crime</b> includes a member of the person's immediate family if the person dies as a result of the act concerned	
	Victims Support Scheme	<b>Primary victim of an act of violence</b> is a person who is injured, or dies, as a direct result of that act. Or a person who is injured, or dies, as a direct result of trying to prevent another person from committing an act of violence, or trying to help or rescue another person against whom an act of violence has just or is being committed, or trying to arrest another person who is committing or who has just committed the act of violence	<b>Family victim</b> is a member of the immediate family of a primary victim who has died as a direct result of that act. <b>Immediate family</b> member is the primary victim's spouse, de facto partner who has cohabited with the victim for at least 2 years, parent, guardian, step-parent, child, step-child, or other child of whom the victim is the guardian, brother, sister, half-brother, half-sister, step-brother or step-sister of the victim	A person who is injured as a direct result of <b>witnessing the act of violence</b> that resulted in the injury to, or death of, the primary victim, is included as a secondary victim of an act of violence

<b>Victims of Crime Act 1994 (ACT)</b>	Principles governing the treatment of victims; Victims services scheme	<b>Primary victim</b> includes a person who suffers harm in the course of, or as a result of, the commission of an offence; or as a result of witnessing an offence.	<b>Primary victim</b> includes a family member of the primary victim, who suffers harm because of the harm to the primary victim	A person who is <b>financially or psychologically dependent</b> on the primary victim and who suffers harm because of the harm to the primary victim
<b>Victims of Crime (Financial Assistance) Act 2016 (ACT)</b>	Financial assistance	<b>Primary victim</b> includes a person who has been injured or dies as a direct result of an act of violence done by another person	<b>Related victim</b> is - a) a person who is a dependant of the primary victim, and either a close family member or intimate partner of the primary victim; b) a person who is financially independent of the primary victim and a close family member who has a genuine personal relationship with the primary victim or an intimate partner of the primary victim; c) a financially independent family member	<b>Homicide witness</b> includes a person who has been injured as a result of being present when the homicide occurs; or being a witness in a criminal investigation or a proceeding related to the homicide
<b>Victims of Crime Assistance Act 2009 (Qld)</b>	Charter of victims' rights	<b>Victim</b> includes a person who has suffered harm because a crime is committed against them; or a family member or dependent of a person who has died or suffered harm due to a crime; or as a direct result of intervening to help a person who has died or suffered harm because of a crime	<b>Victim</b> includes a person who is a family member or dependent of a person who has suffered harm because of domestic violence.	A person who has suffered harm because of <b>domestic violence</b> or as a direct result of intervening to help a person who has suffered harm because of domestic violence
<b>Victims of Crime Act 2001 (SA)</b>	Principles that govern the treatment of victims	<b>Victim</b> includes a person who suffers harm as a result of the commission of the offence		
<b>Victims of Crime Assistance Act 1976 (Tas)</b>	Compensation and victim assistance	<b>Primary victim</b> includes a person against whom an offence is committed	<b>Related victim</b> includes the spouse, child, stepchild, sibling or step-sibling of a primary victim; or a parent or step-parent of a primary victim who was over 18 years of age at the time of the offence; or person in a personal relationship with a primary victim	<b>Secondary victim</b> includes a person who suffers injury as a result of witnessing an offence; or a parent, step-parent or guardian of a primary victim who was under 18 years of age at the time of the offence

<p><b>Victims of Crime Assistance Act (NT)</b></p>	<p>Assistance including counselling, immediate payments of financial assistance or awards of financial assistance.</p>	<p><b>Primary victim of a violent act</b> is: a) if the violent act is a compensable violent act - a person against whom the violent act has been committed regardless of whether the person suffers an injury or dies as a direct result of the violent act; or b) otherwise - a person against whom the violent act has been committed and who suffers an injury or dies as a direct result of the violent act</p>	<p><b>Family victim</b> is the spouse, de facto partner, parent, step-parent, guardian, child, stepchild or a child under the guardianship of the primary victim; a person entirely or substantially dependent for financial support on the primary victim</p>	<p><b>Secondary victim of a violent act</b> a person who is present at the scene of the violent act and suffers an injury as a direct result of witnessing the act.  <b>Related victim of a violent act</b> is a relative or a person in an intimate personal relationship with the primary victim</p>
--	--	--	--	--

## Appendix B

### Guidelines as to how victims should be treated (Schedule 1 of the *Victims of Crime Act 1994*)

1. A victim should be treated with courtesy and compassion and with respect for the victim's dignity.
2. A victim should be given access to counselling about the availability of welfare, health, medical and legal assistance services and criminal injuries compensation.
3. A victim should be informed about the availability of lawful protection against violence and intimidation by the offender.
4. Inconvenience to a victim should be minimised.
5. The privacy of a victim should be protected.
6. A victim who has so requested should be kept informed about —
  - a) the progress of the investigation into the offence (except where to do so may jeopardise the investigation); and
  - b) charges laid; and
  - c) any bail application made by the offender; and
  - d) variations to the charges and the reasons for variations.
7. A victim who is a witness in the trial of the offender and has so requested should be informed about the trial process and the role of the victim as a witness in the prosecution of the offence.
8. A victim who has so requested should be informed about any sentence imposed on the offender, or any other order made in respect of the offender, as a result of the trial and about any appeal and the result of any appeal.
9. A victim's property held by the Crown or the police for the purposes of investigation or evidence should be returned as soon as possible.
10. Arrangements should be made so that a victim's views and concerns can be considered when a decision is being made about whether or not to release the offender from custody (otherwise than at the completion of a term of imprisonment or detention).
11. A victim who has so requested should be informed about the impending release of the offender from custody and, where appropriate, about the proposed residential address of the offender after release.
12. A victim who has so requested should be informed of any escape from custody by the offender.

## Appendix C

### Commissioners for Victims of Crime (or equivalent) in Australia

	WA	NSW	ACT	QLD	SA	Vic	NT	Tas	
<b>Governance</b>	<b>Title</b>	Commissioner for Victims of Crime	Commissioner of Victims Rights	Victims of Crime Commissioner	Victim Services Coordinator	Commissioner for Victims' Rights	Victims of Crime Commissioner	Director of the Crime Victims Services Unit	Manager of Victims Support Service (MVSS) and Criminal Injuries Compensation Commissioner (CICC) <sup>1</sup>
	<b>Statutory Position</b>		✓	✓	✓	✓	✓		CICC is a statutory role
	<b>Appointed by</b>	Director General of Department of Justice	Attorney General	ACT Executive	CEO of the Department of Justice and Attorney General	Governor of South Australia	Governor on the recommendation of the Attorney-General	CEO of the Department of the Attorney-General and Justice	CICC appointed by Attorney General; MVSS by CEO Department of Justice
	<b>Reporting</b>	Responsible to the Director General of Department of Justice	May report to Parliament. Attorney-General may request review or enquiry	Attorney-General may issue directions, subject to transparency requirements	Responsible to Director, Victim Assist Queensland	Attorney-General may issue directions, subject to transparency requirements	Provides reports and advice to the Attorney General	As above	As above

<sup>1</sup> Tasmania's current 'Manager of Victims Support Service' is also the Criminal Injuries Compensation Commissioner. The 'Manager of Victims Support Service' is an administrative role that operates within the Victims Support Service of the Department of Justice. The Victims Support Service provides support services including advocacy for victim's rights, referrals to appropriate community services and resources, etc.

	<b>Annual Reporting</b>	Relevant information is included in the annual report of the Department of Justice	Relevant information is included in the annual report of the Department of Justice	Legislation requires the Director General to produce an annual report on the operation of the Victim Services Scheme	Relevant information is included in the annual report of the Department of Justice	Commissioner must provide annual report to the Attorney-General, who then must table the report in Parliament	Commissioner must provide annual report to the Attorney-General, who then must table the report in Parliament	The Director must within 3 months after the end of each financial year give the Chief Executive Officer an annual report.	Relevant information is included in the annual report of the Department of Justice
<b>Powers</b>	<b>Access to Information</b>		The Commissioner may request information from any person or government agency	An agency must, with the victim's consent, give the Commissioner any document or information that could be provided to the victim		Commissioner may request to consult with a public agency or official to further the interests of victims	Commissioner may require free and full access to any record from the Secretary, Police and DPP		
	<b>Court proceedings</b>			Commissioner is entitled to be present at court proceedings, including private proceedings		Commissioner may intervene in person (or through legal counsel) in criminal proceedings			
<b>Systemic Functions</b>	<b>Policy and Law Reform</b>	✓	✓	✓	✓	✓	✓		
	<b>Inquiring into system issues</b>		May make inquiries and undertake investigations the Commissioner considers necessary	Has a function to advise the Minister on matters relating to the interests of victims		Monitors effect of law and court practices on victims and promotes inquiries	May carry out inquiries on any systemic victim of crime matter		
	<b>Education/Awareness</b>	✓	✓	✓	✓	✓	✓	✓	✓
<b>Functions relating to individual victims</b>	<b>Financial Assistance</b>		✓	✓	✓	✓		✓	
	<b>Complaints handling</b>	✓	✓	✓	✓	Commissioner can recommend written apology if Declaration is violated			

	<b>Responsibility for general victim service delivery</b>	Not responsible for service delivery	Responsible for Victims Services including counselling and financial assistance	Responsible for Victims Services Scheme and Volunteer Program	Responsible for the Victim Coordination Program	Provides range of individual advocacy services	Not responsible for service delivery	Responsible for the Crime Victims Services Unit	MVSS is responsible for register the Victims Support Service
--	---	--------------------------------------	---	---	---	--	--------------------------------------	---	--

## Appendix D

### Existing Victims of Crime Levy Schemes in Australia

NSW	ACT	Qld	NT	SA	TAS
<i>Victims Rights and Support Act 2013</i>	<i>Victims of Crime (Financial Assistance Act 2016</i>	<i>Penalties and Sentences Regulation 2015</i>	<i>Victims of Crime Assistance Act</i>	<i>Victims of Crime (Fund and Levy) Regulations 2003</i>	<i>Victims of Crime Compensation Act 1994</i>
<p>Victims Support Levies are imposed on persons found guilty of crimes.</p> <p>The levy is \$69 for summary offences and \$156 for indictable offences.</p> <p>All monies recovered from the levies are paid into the Victims Support Fund which is used in part for victims support.</p>	<p>A Victims Financial Assistance Levy is imposed when an adult is convicted of an offence.</p> <p>The levy is \$50, and provides a source of revenue to contribute to the cost of providing financial assistance to victims of crime.</p>	<p>An offender levy is an administrative fee that is imposed in addition to any sentence imposed for an offence.</p> <p>The levy is \$356.40 for sentences imposed by the Supreme Court or District Court. And \$118.80 for sentences imposed by a Magistrates Court.</p>	<p>A levy is imposed to provide a source of revenue for the Victims Assistance Fund that helps fund services for victims.</p> <p>A levy is imposed on a person who is found guilty of an offence but not imprisoned; or who expiates an offence by paying an amount specified in an infringement notice.</p> <p>Subject to any exceptions, the levy for an adult is \$200 for indictable offences; \$150 for any other offence; or \$40 for infringements.</p> <p>A \$50 levy is applied to children and \$1000 for corporations.</p>	<p>A victim of crime levy is imposed on all persons convicted of offences.</p> <p>The levy is \$260 for indictable offences. For summary offences the levy is \$160 and \$60 if the offence is expiated offences including traffic fines. For certain serious offences the levy can be \$520.</p> <p>Levies are imposed to provide a source of income for the Victims of Crime Fund.</p>	<p>A compensation levy is imposed on adult persons convicted of serious offences.</p> <p>The levy is either \$50 or \$20 (or a prescribed amount) for persons convicted in the Supreme Court, depending on the type of offence.</p> <p>The levy is \$20 (or a prescribed amount) for summary offences.</p>