



## Making a complaint to the OPP

This brochure provides victims of crime with information about:

- how to **make a complaint** to the Office of Public Prosecutions (OPP)
- how to **contact the Victims of Crime Commissioner** if you are not satisfied with the OPP's response to your complaint
- **support available** to help you make a complaint.

### Who is a victim of crime?

Under the Victims' Charter, you are a victim of crime if you have suffered an injury as a direct result of a crime even if this injury was not foreseeable to the offender.

Injury includes:

- physical bodily injury
- mental illness or disorder
- pregnancy
- grief, distress, trauma or other significant adverse effect
- loss or damage to property
- a combination of these things.

You are also a victim of crime if you are a family member of a victim who:

- has died
- is under 18 years of age
- cannot manage their own affairs due to mental impairment
- is a victim of the offence of grooming (a child under 16 for sexual conduct).

### The OPP's obligations to you

The OPP has obligations towards victims of crime under the Victims' Charter. These include:

- treating you with courtesy, dignity and respect
- providing you information about relevant support services and possible entitlements<sup>1</sup>
- providing you information about how you can seek legal assistance (if required). Please note that the OPP is not your lawyer and does not represent you, therefore cannot give you legal advice
- providing you certain types of information about the prosecution process
- seeking your views on, and provide you with reasons for, certain types of decisions.

The OPP must also inform you about:

- the OPP complaints process
- your right to contact the Victims of Crime Commissioner if you made a complaint to the OPP and are dissatisfied with the OPP's response.

A copy of the OPP's obligations under the Victims' Charter is provided for your assistance.

<sup>1</sup> More information about your rights and entitlements as a victim can be found on our website at [opp.vic.gov.au/victims-witnesses](http://opp.vic.gov.au/victims-witnesses).

## When you can make a complaint to the OPP

If you are a victim of crime, you can make a complaint to the OPP if you feel that:

- the OPP has not engaged with you in accordance with the Victims' Charter
- you are otherwise dissatisfied with how the OPP engaged with you.

## How to make a complaint to the OPP

### Contact the OPP solicitor or social worker

If you feel the OPP has not engaged with you in accordance with the Victims' Charter or you are otherwise dissatisfied with how the OPP engaged with you, you should first contact the OPP solicitor or social worker as it may be possible for them to resolve your issue.

The OPP solicitor or social worker can provide further information, an explanation or clarification.

They can also provide you with information about what to do if you are not satisfied with their response such as:

- how to contact OPP Complaints
- how to make a complaint to the Victims of Crime Commissioner
- supports to help you make a complaint.

### Contact OPP Complaints

If the OPP solicitor or social worker is unable to resolve the issue, or you don't feel comfortable speaking to them, you can contact OPP Complaints.

You can contact OPP Complaints by:

- **completing the complaint form on OPP website**  
**[opp.vic.gov.au/complaints-and-feedback](http://opp.vic.gov.au/complaints-and-feedback)**
- **phone** – 03 9603 7666  
(dial 99 from State Government network)
- **email** – **[complaints@opp.vic.gov.au](mailto:complaints@opp.vic.gov.au)**
- **post** – Office of Public Prosecutions  
PO Box 13085, Melbourne VIC 8010

You can make an anonymous complaint. However, if you would like the OPP to contact you about your complaint, please provide your contact details.

If you contact OPP Complaints:

- a senior solicitor will contact you about your complaint within 10 days of receiving your complaint
- your complaint will be reviewed. The OPP solicitor or other relevant people involved in the case may be contacted as part of the complaints process
- the OPP will provide a response within 28 days that is fair, practical, and proportionate to the seriousness of the issue. If your complaint is complex or further investigation is needed, the OPP will contact you to let you know the expected timeframe for a response.

OPP Complaints will also provide you with information about:

- how to make a complaint to the Victims of Crime Commissioner if you are dissatisfied with the OPP response to your complaint
- supports to help you make a complaint.

### If you are dissatisfied with the response from the OPP, you can contact the Victims of Crime Commissioner

You can contact the Victims of Crime Commissioner if:

- you have contacted the OPP solicitor or social worker, are dissatisfied with their response and do not want to contact OPP Complaints

#### OR

- you have contacted OPP Complaints and are dissatisfied with the response.

You can make a complaint to the Victims of Crime Commissioner by:

- **email** – **[enquiries@vocc.vic.gov.au](mailto:enquiries@vocc.vic.gov.au)**
- **phone** – 1800 101 017.

More information about the role of the Victims of Crime Commissioner and how to make a complaint to the Victims of Crime Commissioner is available on this website **[victimsofcrimecommissioner.vic.gov.au](http://victimsofcrimecommissioner.vic.gov.au)**.

## Complaints about a prosecution

If your complaint relates to a prosecution, please include details about the prosecution in your complaint such as:

- name(s) of the victim/accused
- name(s) of the solicitor/VWAS worker
- OPP case number or court case number
- hearing or conference dates (if relevant).

We appreciate you may not know all this information at the time of making the complaint but please include as much detail as possible. This information will assist the OPP in reviewing and responding to your complaint in a timely manner.

## Support to help you make a complaint

The manager of the Victims and Witness Assistance Service (VWAS) can support you to make a complaint. They will assist you to understand your options and have the support you need to make a complaint, if you want to. They **cannot** give you advice about your complaint, or handle or otherwise respond to your complaint.

They can:

- explain the options available to you for making a complaint
- explain how to make a complaint and what to expect
- assist you in getting the support you need to make a complaint such as an interpreter or a referral to a Victim Assistance Program to help you write a complaint
- if you wish, make a referral on your behalf to OPP complaints.

You can contact the manager of VWAS by email at [VWASManager@opp.vic.gov.au](mailto:VWASManager@opp.vic.gov.au).

## Can I complain about a prosecution decision?

Sometimes, decisions made by the OPP about the criminal case can be upsetting or frustrating for victims and/or their family members because the decision is not what they wish for. An example is when the OPP makes a decision to discontinue (not proceed with) a case because it does not meet the prosecution test, in circumstances where a victim wishes for the case to continue.

The OPP has obligations to seek the views of victims before certain types of decisions are made including decisions to:

- discontinue (not proceed with) a case
- substantially change the charges
- accept a plea of guilty to lesser charges
- appeal a sentence.

The OPP also has obligations to provide victims with reasons for certain types of decisions including decisions to:

- discontinue (not proceed with) a prosecution
- substantially change the charges
- accept a plea of guilty to lesser charges.

The OPP's prosecution decision is final and cannot be reviewed either as part of a formal complaint or a complaint made to the Victims of Crime Commissioner.

If you are dissatisfied with a decision by the OPP, please talk to the OPP solicitor or social worker as a first step. They may be able to provide further information or clarification that assists you to understand why a certain decision has been made.

If you believe that the OPP has not complied with its obligations under the Victims' Charter (such as seeking your views or providing you with reasons for a decision) you may make a complaint to the OPP by contacting the OPP solicitor or social worker, or using the OPP complaints process.

# How the OPP will engage with you under the Victims' Charter

The Victims' Charter recognises that victims of crime should be treated with courtesy, dignity and respect, and be provided with clear, relevant information about the court process, and their rights and entitlements. This extract from the Charter outlines how the OPP will engage with you throughout the prosecution process.

## Courtesy, Dignity, Respect and Responsiveness

Victims' Charter principle	How the OPP will engage with you
<b>Courtesy, dignity, respect and responsiveness</b> Section 6	The OPP is to: <ul style="list-style-type: none"><li>• treat all persons adversely affected by crime with courtesy, respect and dignity</li><li>• take into account and be responsive to their particular needs, particularly needs relating to differences such as:<ul style="list-style-type: none"><li>a. race or Indigenous background</li><li>b. sex or gender identity</li><li>c. cultural or linguistic diversity</li><li>d. sexual orientation</li><li>e. disability</li><li>f. religion</li><li>g. age.</li></ul></li></ul>
<b>Respecting victims as participants</b> <b>Responsiveness to regional and rural needs</b> Section 7A	The OPP is to: <ul style="list-style-type: none"><li>• respect the rights and entitlements of victims as participants in proceedings for criminal offences</li><li>• as far as reasonably practicable, take into account, and be responsive to, the particular needs of victims living in rural and regional locations.</li></ul>
<b>Communication preferences</b> Section 7B	The OPP is to: <ul style="list-style-type: none"><li>• take into account, and be responsive to whether the victim wishes to be contacted, their preferred method of contact (which may vary throughout the criminal case) and issues that may affect the victim's ability to understand the information being communicated including:<ul style="list-style-type: none"><li>a. the victim's understanding of English</li><li>b. whether the victim has a disability; and</li><li>c. whether the victim is a child.</li></ul></li></ul>

## Information you are entitled to receive

Victims' Charter principle	How the OPP will engage with you
<p>Supports, entitlements, assistance and referrals</p> <p>Section 7</p>	<p>The OPP is to:</p> <ul style="list-style-type: none"> <li>• provide clear, timely, and consistent information about relevant support services, possible entitlements and legal assistance available to persons adversely affected by crime; and</li> <li>• if appropriate, refer persons adversely affected by crime to relevant support services.</li> </ul>
<p>Charges, appeals</p> <p>Section 9</p>	<p>The OPP is to inform the victim, as soon as reasonably practicable, of:</p> <ul style="list-style-type: none"> <li>• the offences charged;</li> <li>• if no offence is charged, the reason no offence was charged;</li> <li>• any decision to substantially modify or discontinue the offences charged, or accept a plea of guilty to a lesser charge;</li> <li>• any appeals, the grounds of appeal and the result of the appeal.</li> </ul>
<p>Court hearings and outcomes</p> <p>Section 9A</p>	<p>The OPP is to take all reasonable steps to advise a victim of:</p> <ul style="list-style-type: none"> <li>• the date, time and location of any contested committal hearing, trial, plea hearing, sentencing hearing and appeal hearing; and</li> <li>• the progress of a prosecution, including the outcome of any committal mention, contested committal hearing, initial directions hearing, trial, plea hearing, sentencing hearing or appeal hearing, or guilty plea.</li> </ul>
<p>Bail applications</p> <p>Section 10</p>	<p>On request, the OPP is to ensure that the victim is informed of:</p> <ul style="list-style-type: none"> <li>• the outcome of any bail applications by the accused; and</li> <li>• any bail conditions intended to protect the victim or their family members.</li> </ul>

<p>Court process</p> <p>Giving evidence</p> <p>Special arrangements for giving evidence</p> <p>Section 11</p>	<p>The OPP is to ensure that the victim is informed about:</p> <ul style="list-style-type: none"> <li>the court process and the victim's entitlement to attend any relevant court proceedings unless the court orders otherwise.</li> </ul> <p>If a victim is to appear as a prosecution witness, the OPP is to ensure that the victim is informed about:</p> <ul style="list-style-type: none"> <li>the process of the trial or hearing;</li> <li>the victim's role as a witness for the prosecution;</li> <li>that after the victim has given evidence they may remain in court unless the court orders otherwise; and</li> <li>if relevant, any special protections or alternative arrangements for giving evidence.</li> </ul> <p>The OPP is to ensure the court is informed about:</p> <ul style="list-style-type: none"> <li>the victim's preferences for the use of any special protections or alternative arrangements for giving evidence.</li> </ul>
<p>Victim impact statements</p> <p>Section 13</p>	<p>The OPP must:</p> <ul style="list-style-type: none"> <li>inform a victim, as soon as reasonably practicable after commencing to deal with the victim, of the victim's entitlement to make a victim impact statement (VIS).</li> </ul> <p>If a victim expresses a wish to make a VIS, the OPP is to:</p> <ul style="list-style-type: none"> <li>refer the victim to an appropriate victims' services agency for assistance in making the VIS; and</li> <li>give the victim general information about the types of material in a VIS that the court might not allow, and the consequences if the court does not allow that information.</li> </ul>
<p>Compensation and financial assistance</p> <p>Section 16</p>	<p>The OPP must:</p> <ul style="list-style-type: none"> <li>inform the victim of the victim's possible entitlements under Division 1 and 2 of Part 4 of the <i>Sentencing Act 1991</i>; and</li> <li>refer the victim to any legal assistance available to them.</li> </ul>

## Decision Making

Victims' Charter principle	How the OPP will engage with you
<p>Seeking views of the victim</p> <p>Section 9B(1)</p>	<p>The OPP is to seek the views of a victim before making a decision to:</p> <ul style="list-style-type: none"> <li>• substantially modify the charges;</li> <li>• discontinue the prosecution of the charges;</li> <li>• accept a plea of guilty to a lesser charge;</li> <li>• oppose an application for sentence indication;</li> <li>• appeal a sentence; or</li> <li>• appeal an acquittal</li> </ul> <p>unless the victim cannot be contacted, or it is not practical to contact the victim because of the speed or nature of the proceeding.</p>
<p>Information about factors taken into account in making certain types of decisions</p> <p>Section 9B(2)</p>	<p>The OPP is to give the victim information about the matters taken into account in making a decision to:</p> <ul style="list-style-type: none"> <li>• agree to or oppose an application to cross-examine the victim at a committal hearing;</li> <li>• apply for, agree to, or oppose an application for summary jurisdiction; or</li> <li>• oppose an application for a sentence indication</li> </ul> <p>unless the victim cannot be contacted, or it is not practical to contact the victim because of the speed or nature of the proceeding.</p>
<p>Reasons for certain types of decisions</p> <p>Section 9C</p>	<p>The OPP is to give a victim, as soon as reasonably practicable, reasons (orally or in writing) for any decision to:</p> <ul style="list-style-type: none"> <li>• substantially modify the charges;</li> <li>• discontinue charges; or</li> <li>• accept a plea of guilty to lesser charges.</li> </ul> <p>The OPP does not have to provide reasons if this would jeopardise a criminal investigation or prejudice another proceeding.</p>

## Complaints

Victims' Charter principle	How the OPP will engage with you
<b>Victim may complain</b> Section 19B	A victim may complain to the OPP if the victim believes that the OPP has not complied with the Charter principles.
<b>Complaints</b> Section 19	If a person adversely affected by crime informs the OPP that they believe the OPP has not upheld the Charter principles, the OPP should: <ul style="list-style-type: none"> <li>• inform the person about the processes available for making a complaint.</li> </ul>
<b>Complaints process</b> Section 19A	The OPP must: <ul style="list-style-type: none"> <li>• have a system to receive and resolve complaints from victims, which is accessible, transparent, and which offers fair and reasonable remedies.</li> <li>• inform the victim as soon, as reasonably practicable after commencing to deal with a victim, of:               <ol style="list-style-type: none"> <li>a. the complaints system; and</li> <li>b. the victim's right to have a complaint reviewed under the <i>Victims of Crime Commissioner Act 2015</i> if dissatisfied with the OPP's response to the complaint.</li> </ol> </li> </ul>

## Other principles

Victims' Charter principle	How the OPP will engage with you
<b>Minimising contact between victim and accused at court</b> Section 12	During a court proceeding and within a court building, the OPP should, as far as is reasonably practicable: <ul style="list-style-type: none"><li>• minimise the victim's exposure to unnecessary contact with defence witnesses, the accused and the accused's family members and supporters; and</li><li>• protect the victim from intimidation by defence witnesses, the accused and the accused's family members and supporters.</li></ul>
<b>Privacy</b> Section 14	The OPP must not: <ul style="list-style-type: none"><li>• disclose a victim's personal information, including their address and telephone number, except in accordance with the <i>Privacy and Data Protection Act 2014</i>.</li></ul>
<b>Storage and return of property</b> Section 15	If the OPP holds any property of a victim for the purpose of the criminal prosecution, the OPP is to: <ul style="list-style-type: none"><li>• handle and store the property in a lawful, respectful and secure manner; and</li><li>• if possible and in consultation with the victim, return the property to the victim as soon as reasonably practicable (and in consultation with the victim).</li></ul>