NSW CODE OF PRACTICE for the CHARTER OF VICTIMS RIGHTS
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I am very pleased to introduce the NSW Code of Practice for the Charter of Victims Rights. The Code both helps service providers understand how to meet their obligations under the Charter and helps victims of crime know what to expect from service providers.

Victims of crime have told us that they want to be kept informed about their matter as it progresses through the criminal justice system. That way, they can make informed decisions about how they will participate in it. They want to know how the criminal justice system is going to respond to them and they want to feel safe. This Code demonstrates the NSW Government’s commitment to support victims of crime when they need it most. This is further supported by agencies who have demonstrated their willingness to comply with and support the Code of Practice.

I would like to thank the Government departments, non-government agencies and professional associations listed on the following page for their contribution to the development of the Code. Their commitment to victims of crime is clear and I hope the Code will provide practical assistance to them in implementing the Charter.

The NSW Commissioner of Victims Rights is responsible for promoting and overseeing the implementation of the Charter and will be reporting on agency performance in relation to the Code. I look forward to seeing continued collaboration and improvements in the services provided to victims of crime.

The Hon. Greg Smith SC MP
Attorney General
Minister for Justice
The following organisations contributed towards developing the NSW Code of Practice:

- Aboriginal Child, Family and Community Care State Secretariat (NSW)
- Association of Children’s Welfare Agencies
- Australian Association of Social Workers
- Australian Psychological Society
- Child and Adolescent Sexual Assault Counsellors (CASAC)
- Council of Social Services of New South Wales (NCOSS)
- Criminal Justice Support Network
- Department of Attorney General and Justice (NSW)
- Department of Education and Communities (NSW)
- Department of Human Services
- Enough is Enough Anti Violence Movement Inc
- Gay and Lesbian Rights Lobby
- Homicide Victims Support Group (Aust) Inc
- Intellectual Disability Rights Service
- Local Community Services Association
- NSW Consumer Advisory Group – Mental Health Inc
- NSW Domestic Violence Coalition
- NSW Ministry of Health
- NSW Police Force
- NSW Rape Crisis Centre
- NSW Women’s Refuge Movement
- Office of the Director of Public Prosecutions (NSW)
- People with Disability Australia
- Victims of Crime Assistance League Inc NSW (VOCAL)
- Women with Disabilities Australia
Becoming a victim of crime can be a stressful and traumatic experience. Victims can experience injury, trauma, loss and disruption in their lives as a result of a crime committed against them. They may need support and information to assist them to navigate the criminal justice system.

The purpose of the NSW Code of Practice (the Code) is to assist victims to understand how to access their rights and to assist service providers in describing their responsibilities under the Charter of Victims Rights (the Charter), to victims of crime. The Code sets minimum standards of service provision and support to victims of crime and clarifies how service providers meet their obligations under the Charter. It also aims to provide victims of crime with a better understanding of what to expect from service providers.

Once a victim has reported a crime, the criminal justice process begins. Victims are an important part of the criminal justice system, and the NSW Government is committed to supporting and assisting victims through this journey.
The Charter is based on the 1985 United Nations Declaration of Basic Principles of Justice for Victims of Crime and the Abuse of Power. The Charter is established by the Victims Rights and Support Act 2013. (Please see Appendix A.)

There are 18 rights included in the Charter, which describe how victims of crime will be treated and assisted by government departments, non-government agencies and private contractors funded by the State who provide services to victims of crime (for full details see Section 4). They will be referred to as “service provider” in the NSW Code of Practice.

The Victims Rights and Support Act 2013 (the Act) states that the Charter, as far as practicable and appropriate, governs the treatment of victims by an individual or agency exercising official functions in the administration of the affairs of the state.

The Charter does not create enforceable legal rights for the victim and there are no sanctions for failure to comply. Non-compliance does not lead to criminal or civil legal action against an individual agency or public official. In NSW, a public official can be disciplined as a result of failure to comply with the Act.

The Act requires that the NSW Commissioner of Victims Rights, NSW Department of Attorney General and Justice (Victims Services) promotes and oversees the implementation of the Charter. It requires that Victims Services uses its best endeavours to resolve issues relating to the support and provision of services to individuals under the Act.

2.1 What is the Code of Practice?

The NSW Code of Practice (the Code) describes the minimum levels of service required to be provided to victims of crime by service providers identified in the Act.

The Code was developed in consultation with government, non-government and professional associations and other stakeholders.

The Code outlines the obligations of service providers in their response to victims of crime, and details complaints procedures, if a victim of crime believes that a Charter right has been breached.

Not all service providers are responsible for each of the rights under the Charter. However, it is expected that staff in all agencies are aware of the obligations under the Charter, make information about the Charter available to their clients, and meet the standards outlined by the Code.

2.2 Why develop a Code of Practice?

The Code aims to clearly state what victims of crime should expect in relation to each of the Charter rights, who is responsible for meeting it, and when and how it should be implemented.

Not all victims of crime will require the same level of support and assistance. In times of crisis, the majority of people rely on the supports they normally have available to them to assist them in dealing with the criminal justice process. This Code has been written for those who require support from service providers, those who have ongoing support needs and those who require practical information to assist in their recovery and throughout the criminal justice process.

The Code also provides a level of guidance to those responsible for implementing victims’ rights to make sure they, as well as victims, are fully aware of what should be expected and how they are to be treated under the Charter.
3.1 How do we define a victim of a crime?

The *Victims Rights and Support Act 2013* defines a victim of a crime as:

*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 in New South Wales.*

A person suffers **harm** if, as a result of such an act:

1. the person suffers actual physical bodily harm or psychological or psychiatric harm, or
2. the person's property is deliberately taken, destroyed or damaged.

And if the person dies as a result of the act concerned, a member of the person's immediate family is also a victim of crime for the purposes of this Act. If a person dies as a result of the act concerned and there is more than one member of the person's immediate family, members of the immediate family may nominate a representative for the purposes of interacting with service providers under the Charter.

The definition of a victim of crime extends to children and young people harmed as a result of a criminal offence. In this case, a parent or guardian may be the contact person. This is providing that the person is not under investigation or has been charged in relation to the criminal offence of which the child or young person is the victim.

Where a victim of crime does not wish to interact, or is unable to interact, directly with service providers under the Charter, they may nominate a representative of their choosing. They must confirm their relationship with the representative, providing consent and the representative's contact details to the agency as soon as possible.

Whilst the Charter applies to all victims of crime, some Charter rights only apply to victims of serious personal violence offences. Please see Appendix B for those offences which are defined as serious personal violence offences.

3.2 Who is entitled to services?

In determining whether a person is entitled to receive services under the Code it must first be established that:

- the individual suffered harm as a direct result of a criminal offence committed or apparently committed by another person; and
- the crime was committed in NSW.

Eligibility to receive services and information under the Charter can be explored further with the Victims Access Line, managed by Victims Services. The Victims Access Line can also provide information about services available to those who are not eligible under the Charter. The Victims Access Line can be contacted on 1800 633 063.
3.3 Under what circumstances might a victim of crime seek assistance under the Charter?

Victims of crime may seek assistance to:

- report an incident;
- seek medical assistance, emotional or psychological support following an incident;
- obtain details and information about the investigation of a crime;
- obtain information about court procedures and witness attendance;
- obtain details relating to criminal proceedings: arrest, bail, sentencing and parole issues;
- obtain certain information about the offender, whilst in custody;
- claim financial assistance, request counselling and other related matters as a result of the criminal act/s; and
- obtain information about how to make a complaint if the victim believes that a Charter right has been breached.

3.4 What do I do if I believe a Charter right has been breached?

The Charter applies to all government service providers, as well as non-government service providers and private contractors funded by the State who provide services to victims of crime.

These service providers aim to meet the needs of their clients, however if an individual has a concern that their actions do not meet the standards set out in the Charter, then victims of crime have the right to make a complaint.

If an individual believes that they are a victim of a crime, and that the Charter has been breached, they should first seek to resolve the issue with the agency with whom they are in contact.

If the individual is dissatisfied with the outcome of the complaint or is concerned about contacting the agency directly and believes that a Charter right has been breached, a complaint can be made to Victims Services. Victims Services will then contact the agency, with the client’s consent, and use its best endeavours to resolve the issue.

3.5 Shared responsibility

Victims are entitled to expect that service providers will work together to achieve positive outcomes for them. In many cases a number of service providers might have key responsibility in the provision of services.

This responsibility may change at different times through the criminal justice process and as a result there can be multiple service providers, rather than one single service provider, which have a responsibility to provide information and support for victims of crime.

Service providers are entitled to expect that victims of crime or their nominated representative will work with them, by making sure that they keep in contact with services, provide updates on their personal contact details and work in a respectful manner with those employed to assist them (see also Appendix C for an outline of those roles and responsibilities of victims of crime).
A victim of crime comes into contact with a number of service providers in their journey through the criminal justice system. Some of these service providers have a direct role in providing support, information and services, whilst others may have minimal or indirect contact with the victim.

The Victims Rights and Support Act 2013 requires that any person or agency exercising official functions in the administration of the affairs of the State, must (to the extent that it is relevant and practical to do so) consider the Charter in their interaction with a victim of crime.

The Charter applies to:

- All NSW Government departments.
- Non-government agencies funded by the State to provide services to victims of crime.
- Any person providing services to victims of crime who is funded by the State to provide those services.

**NSW Government departments**

There are a number of NSW Government departments which are structured in Clusters. These include NSW Government police and justice service providers, human services, health, education, housing and transport service providers.

All play an integral role in providing or overseeing support, information and services either directly or indirectly to victims of crime and are responsible for ensuring adherence to the Charter.

**Non-government agencies**

There are a range of non-government agencies which provide services to victims of crime.

Non-government agencies are autonomous bodies, which frequently work collaboratively with government and other service providers. These organisations will work in accordance with the standards set out in the Code.

Non-government agencies include services such as family services, accommodation services, disability services, mental health services, services for homeless people, children’s services, court support services, domestic violence services, sexual assault services and victims support service providers and advocacy groups. Some provide more general services for the community as a whole, whilst others provide targeted services, such as Aboriginal services, youth services, ethnic services, gay, lesbian and transgender services and culturally and linguistically diverse services.

**Persons funded by the State to provide services to victims of crime**

People contracted by the NSW Government to provide services to victims of crime may be self-employed, work in private practice or are consultants working with a government department or non-government agency.

This may include persons who may be social workers, welfare workers, psychologists and psychiatrists, psychotherapists or counsellors. It does not include private lawyers or medical practitioners.

Other people funded to provide services to victims of crime may also include physiotherapists, speech therapists and other allied health professionals, family support workers, child protection workers and service providers working with children in out-of-home care.
It is reasonable for all victims of crime to expect that all service providers will:

- Treat them in an appropriate, respectful and non-judgmental manner, with cultural sensitivity and respect.
- Understand the impact of the crime and to respond without prejudice in relation to the incident or incidents experienced by the person affected.
- Use best practice standards, as outlined in the policies and procedures of each agency, to assess and meet the needs of people who request help.
- Provide information about a victim's rights in ways that ensure their understanding.

The *Anti-Discrimination Act 1977* identifies that individuals should not be treated differently because of their inclusion in a specific group. This may include issues related to:

- Homosexuality
- Race
- Marital or domestic status
- Age
- Transgender status
- Carer’s responsibilities (in employment only)
- Disability
- Sex (including pregnancy or breastfeeding)

**Who is responsible to uphold this right?**

- All government departments working with victims of crime, or those who come in contact with victims of a crime.
- Non-government organisations funded by the State to provide services to victims of crime.
- Private contractors funded by the State to provide services to victims of crime.
Service providers are required to do all that is possible to provide victims of crime with relevant information and appropriate referrals to other service providers.

**It is reasonable for all victims of crime to expect that all service providers will provide:**
- Information about the role and function of their agency to ensure that there is a clear understanding of what they can expect from them.
- The name, location and contact details of any other agency that may be beneficial to the person or referral to a key contact point where this information can be provided.
- Brief information about potential costs that may be incurred by the individual (if known).
- Information about the Charter (including links from service providers’ websites to details about the Charter).

**In addition:**

**NSW Police Force will:**
- provide every victim of crime with a Victims Card and a brief outline about how the matter will be dealt with (a Victims Card is not provided when matters are reported verbally to the Police Assistance Line and CrimeStoppers);
- provide details about the Local Area Command (i.e. the police station the person is dealing with) in charge of the investigation including the contact details of the investigating officer;
- provide information about the Victims Access Line and relevant support services;
- in domestic violence matters, provide victims with information about support services and referral pathways; and
- if a family member has died as a result of homicide, provide specific information about support and counselling.

**NSW Health Sexual Assault Services**

In addition to support, will offer written material to non-offending parents, families and carers on:
- follow-up counselling that is available;
- medical testing and follow up for sexually transmitted infections including HIV;
- emergency contraception;
- financial assistance for victims of crime;
- the NSW Police Force role and the investigation and court process.

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NSW Department of Attorney General and Justice – Victims Services will, through the Victims Access Line:

- provide a first point of contact to victims of crime and will provide immediate information about services and remedies and make referrals (as appropriate) to assist victims in meeting their needs.

Who is responsible to uphold this right?

- All government departments working with victims of crime, or those who come in contact with victims of a crime.
- Non-government organisations funded by the State to provide services to victims of crime.
- Private contractors funded by the State to provide services to victims of crime.
It is reasonable for victims of crime to expect that service providers will provide:

- A coordinated response. Many of the service providers that provide assistance to victims of crime will work together to provide the best possible service for individuals, responsive to their needs.

- The details of the Victims Access Line, which can provide a first point of contact for victims seeking assistance and provide information about services and remedies to assist them to meet their needs.

- The current name, location and contact details of service provider/s that may help in providing further information and support.

- Brief information about potential costs that may be incurred by the individual in accessing these services (if known).

- Details about services that provide legal information to assist individuals.

In addition:

**NSW Department of Attorney General & Justice – Victims Services will:**

- through the Victims Access Line, provide referral information relevant to the individuals’ needs; and

- provide access to up to 22 hours of free counselling via the Approved Counselling Scheme for victims of violent crime. The request for counselling will be assessed within two working days. If approved, the client will be provided with 10 hours of counselling, with the additional hours to be decided upon after a brief report is submitted by the counsellor to Victims Services.²

**Office of the Director of Public Prosecutions through the Witness Assistance Service will:**

- provide information, assessment, referral, liaison, court preparation, coordination of court support and assistance with Victim Impact Statements and services, to all victims of crime in the Office of the Director of Public Prosecutions. A letter is sent to all victims of crime inviting them to contact the Witness Assistance Service while proactive contact is made by the Witness Assistance Service with victims in priority matters and groups.

**NSW Health Organisations will:**

- provide appropriate medical examinations and care, offer forensic examinations (for example, to victims of sexual assault), counselling and information as soon as possible after the crime, through either Local Health District Services, including Sexual Assault Services, or through referral services, and

- provide advocacy services (NSW Health Sexual Assault Services, Child Protection Counselling Services and Child Protection Units) for clients to assist them through the complex medical and legal systems which may be encountered following a sexual assault or in child protection matters.³

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² Free Approved Counselling is available to victims of personal violence through Victims Services.

Restorative Justice Programs, including Forum Sentencing, Circle Sentencing and Youth Justice Conferencing, will:
- contact victims and offer the opportunity to participate in a Forum, Circle or Conference, in locations where the program is available and where the case has been determined to be eligible and suitable.

Who is responsible to uphold this right?
- All government departments working with victims of crime, or those who come in contact with victims of a crime.
- Non-government organisations funded by the State to provide services to victims of crime.
- Private contractors funded by the State to provide services to victims of crime.
The NSW Police Force will record a victim’s current contact details and preferred method of contact, and will try to be flexible to a victims needs.

Victims need to ensure that they keep NSW Police Force updated with any changes to their contact details (see Appendix C).

**It is reasonable for victims of crime to expect that the NSW Police Force will:**
- Provide an event number from NSW Police Force.
- Provide a Victims Card outlining the services available to them (this excludes those matters reported to the Police Assistance Line or CrimeStoppers).
- Contact victims within seven days of the incident being reported to the NSW Police Force, using the victim’s contact details provided to them by the victim (this excludes those matters reported to the Police Assistance Line or CrimeStoppers).
- Update victims (where police proceed with an investigation) at least every 28 days or at particular milestones during the investigation, using the victim’s contact details provided to them by the victim.
- Inform victims of the decision to proceed, or not proceed, with an investigation.
- Advise the victim of a decision not to charge or release a suspect.
- Advise the victim if a suspect is cautioned, reprimanded or given a final warning.
- Advise the victim if the suspect has been arrested.
- Inform the victim of the status of the investigation right to the very end. This includes where an investigation cannot progress any further without additional information or evidence.
- Direct victims who may require additional support during the investigation, to the Victims Access Line to discuss their needs, unless another agency is involved.

**Who is responsible to uphold this right?**
- NSW Police Force (the Officer-in-Charge of the investigation or investigating officer)
Depending upon the type of charge against the accused and the court in which the matter will be heard, the prosecutor may be the police prosecutor or a prosecutor for the Office of the Director of Public Prosecutions.

The NSW Police Force and the Office of the Director of Public Prosecutions will record a victim's current contact details and preferred method of contact, and will try to be flexible to a victim's needs. In order to uphold this right, service providers need victims of crime to keep their personal details current (see Appendix C).

Any service provider that makes contact with NSW Police Force or the Office of the Director of Public Prosecutions on behalf of a victim of a crime must first have permission from the victim, preferably in writing, before any information will be released by either agency.

**It is reasonable for victims of crime to expect that:**

**NSW Police Force and/or the Office of the Director of Public Prosecutions will:**
- notify victims (or a nominated alternate contact person) in a timely fashion in writing, over the phone or in person, regarding the prosecution of the accused of the following:
  - The planned date of the hearing.
  - The location of the hearing.
  - Updates about the prosecution. These updates will be provided at regular intervals or milestones relevant to the case if the victim wishes to be notified.
  - Information about the decision not to proceed with charges laid against the accused, including any decision to accept a plea of guilty by the accused to a lesser charge.
  - Outcomes of hearings will be conveyed to the victim in a timely manner.

**And in serious personal violence matters will:**
- consult with the victim where the prosecutor has received an offer from the offender to plea of guilty to an offence other than the offence(s) which the offender had been charged or committed for trial. In these instances a certificate must be signed and presented to court noting that consultation with the victim took place, or if consultation did not occur, the reasons why consultation did not occur. The certificate must certify that the statement of agreed facts has been amended to the offence to which the offender pleads guilty. The victim will be consulted if the matter is withdrawn or charges are not to be proceeded with, although there is no requirement to produce a certificate to the court.
NSW Department of Attorney General & Justice courts and tribunals will:

- notify the NSW Police Force and the Office of the Director of Public Prosecutions within three working days of the matter being listed regarding the court date, location and the information regarding the date (as being set, adjourned or postponed);
- provide general information, via the court registry, to victims in relation to court processes. General information regarding the role of the Court Officer and the Court Registry Officer can also be provided;
- provide information to victims of crime regarding court dates and listing when requested;
- provide victims access to relevant court documents, upon a plea of guilty being entered or otherwise upon the matter being finalised by the court. Such a request is to be made to the court registry, and access to documents will be provided at a time convenient to the parties; and
- provide victims with access to transcripts of the victim’s evidence, the accused’s evidence, judge’s remarks on sentencing, the judgment in court proceedings, free of charge, on application to the court registry by the victim of crime.

All other service providers (i.e. service providers that do not have jurisdiction over matters relating to information about the prosecution) will ensure:

- that privacy and confidentiality is upheld for those who seek information about a victim of crime matter. Information can only be shared following written consent from the victim;
- that procedures regarding the sharing of information between service providers be included in policies and procedures to ensure victims are clear about the roles and responsibilities of those that assist them; and
- that victims are referred to the relevant service providers where necessary.

Who is responsible to uphold this right?

- NSW Police Force (the Officer-in-Charge of the investigation or investigating officer)
- Office of the Director of Public Prosecutions
- NSW Department of Attorney General and Justice courts and tribunals
- Government and non-government service providers who provide direct court support services.
- Service providers involved in the sharing of information may also include Workcover NSW, Australian Federal Police, Police Integrity Commission, Independent Commission against Corruption and relevant unions.
It is reasonable for victims of crime to expect that:

- Clear, accurate and timely information is provided to them about the prosecution process.
- They are made familiar with the court environment, so the victim understands their role as a witness, the roles of other people in court, the function and layout of the court facilities.
- Where relevant services are not already involved, they will be referred to the Victims Access Line to assist with the psychological impact of the role of a witness, be provided with information about the court process or court support options.
- Where relevant services are not already involved, the victim will be referred to a court support agency that operates at the courthouse where the matter is to be heard.

In addition:

**NSW Police Force and/or the Office of the Director of Public Prosecutions will:**

- provide timely written or verbal information about the resources available when attending a trial. This may include referral information;
- where appropriate, when the victim needs to leave the court precinct, obtain the victim’s mobile telephone contact details so the victim can be contacted when they are due to be called as a witness; and
- where possible, communicate the expected waiting period for victims who are witnesses at court, with a view to minimising the waiting period.

**NSW Department of Attorney General and Justice courts and tribunals will:**

- provide relevant information in relation to criminal and civil matters involving a victim, upon the victim identifying the name of the defendant, or the matter they are involved in; and
- provide court familiarisation (in some locations), to assist witnesses with understanding the role, function and layout of court facilities.

**Department of Attorney General and Justice – Victims Services will:**

- provide relevant material about the criminal justice process immediately on request; and
- provide court support service referral options to a victim, immediately on request.
Who is responsible to uphold this right?

- NSW Police Force
- Office of the Director of Public Prosecutions
- Victims Services
- NSW Department of Attorney General and Justice courts and tribunals
- Nominated non-government service providers, including Homicide Victims Support Group, Mission Australia, Victims of Crime Assistance League, Child & Adolescent Sexual Assault Counselling, Victims/Witnesses of Crime Court Support and domestic violence support services.
- NSW Health
It is reasonable for victims to expect that:

- A safe room or a separate waiting room is available when they attend court. In regional courthouses, arrangements for the victim to be housed in an office or another location will be considered.
- Security measures will be put in place to enhance victim safety during prosecution.
- Service providers will notify the Office of the Sheriff of NSW or NSW Police Force, if they have concerns about their safety.

In addition:

**NSW Department of Attorney General and Justice courts and tribunals, will:**

- ensure that a safe room or a separate waiting room is available for a victim when they attend court. In regional courthouses, arrangements for the victim to be housed in an office or another location will be considered;
- upon request from a victim, will make arrangements for the victim to be seated away from the defendant and their supporters;
- consult with the victim in relation to their safety and may notify the Office of the Sheriff of NSW or NSW Police Force if they have concerns about their safety; and
- provide access to remote witness facilities for vulnerable witnesses, when applied for.

**Office of the Sheriff of NSW will:**

- act to ensure the safety of a victim as soon as possible after being notified.

**NSW Police Force will:**

- advise the prosecutor if they become aware of concerns about the safety of the victim from the offender. The prosecutor can then advise the court of the victim’s need for protection whilst at court; and
- arrange with the victim a time and place to meet at court and arrange for someone to show the victim the safest place to wait.

Who is responsible to uphold this right?

- NSW Department of Attorney General and Justice courts and tribunals
- NSW Police Force
- Office of the Director of Public Prosecutions
- Office of the Sheriff of NSW
- Nominated non-government service providers, for example Homicide Victims Support Group, Mission Australia, Victims of Crime Assistance League, Child & Adolescent Sexual Assault Counselling, Victims/Witnesses of Crime Court Support, domestic violence support services
- NSW Health
CHARTER RIGHT 8: Protection of identity of victim

When a matter is before the court a victim of a crime can expect that their privacy is respected. A victim’s residential address and telephone number will not be disclosed unless a court otherwise directs.

It is reasonable for victims of crime to expect that:

- All service providers working with victims of crime will not disclose an individual’s residential address and telephone number unless a court otherwise directs.
- All service providers adhere to non-publication orders and non-disclosure orders put in place to protect the identity of victims of crime.
- Their right to privacy will also be applied in court.
- They receive information about how their identity can be protected, as far as legislation provides. They will be informed that the final decision about meeting requests for suppression of their identity rests with the Magistrate or Judge.
- All service providers will adhere to the Government Information (Public Access) Act 2009 and the Health Records and Information Privacy Act 2002.4
- All service providers to be aware of the possibility of the victim’s records attracting the Sexual Assault Communications Privilege and to make the appropriate referrals to NSW Legal Aid’s Sexual Assault Communications Privilege Service as required.5

Who is responsible to uphold this right?

- All government departments working with victims of crime, or those that come in contact with victims of a crime.
- Non-government organisations funded by the State to provide services to victims of crime.
- Private contractors funded by the State to provide services to victims of crime.

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5 Criminal Procedure Amendment (Sexual Assault Communications Privilege) Act 1999.
It is reasonable for victims of a crime to expect that:

- They are not required to attend preliminary hearings or mentions unless the court, the NSW Police Force or the Office of the Director of Public Prosecutions directs them to attend.
- NSW Police Force and the Office of the Director of Public Prosecutions are obliged to inform victims of sexual assault and other serious personal violence matters and vulnerable witnesses that they need not attend court for preliminary or committal hearings unless directed by the court or are required to attend by the prosecutor.

In addition:

NSW Department of Attorney General and Justice courts and tribunals will:

- provide relevant information in relation to criminal and civil matters involving a victim, upon the victim identifying the name of the defendant, or the matter they are involved in.

Who is responsible to uphold this right?

- NSW Police Force
- Office of the Director of Public Prosecutions
- NSW Department of Attorney General and Justice courts and tribunals
The length of time that property may be retained varies, depending on the offence, and whether the property is needed for court and any subsequent appeals.

**It is reasonable for a victim of a crime to expect that:**

**NSW Police Force will:**
- hold property (known as exhibits), used for evidence securely, have records showing where that property is located and be given an official record number for that exhibit;
- hold exhibits for no longer than necessary and return them as soon as practicable;
- return the property to the victim of crime immediately, if it is not required for a hearing or court trial and when there are no rival claims for ownership for it and when the owner is known;
-56x104px advisable victims of crime if the property is not required and can be collected. Property must be claimed within 28 days of this advice. After 28 days police may destroy any uncollected property; and
- advise victims of crime if property is required to be kept indefinitely.

**Office of the Director of Public Prosecutions will:**
- return any exhibits to the NSW Police Force at the conclusion of the case. If the accused is found not guilty, property will be returned as soon as possible;
- in matters where there has been a conviction, return property at the end of an appeal hearing, if an appeal is lodged; and
- advise victims of crime if property is required to be kept indefinitely.

**NSW Department of Attorney General and Justice courts and tribunals will:**
- hold securely any property required as evidence in court cases, and list it in the Record of Exhibit, by the Court Officer; and
- return property to the prosecution, or relevant party, as soon as it is no longer required.

**Who is responsible to uphold this right?**
- NSW Police Force
- Office of the Director of Public Prosecutions
- NSW Department of Attorney General and Justice courts and tribunals
The NSW Police Force will assess a victim’s need for protection as part of their investigation and their contact with the victim. Protection relates to both physical and psychological protection from further harm. Protection also extends to the long-term needs of victims of crime.

If a victim of crime has concerns for their safety, they should communicate these concerns to the NSW Police Force or the Office of the Director of Public Prosecutions, who is handling the bail application.

If a victim does not feel comfortable to advise NSW Police Force or the Office of the Director of Public Prosecutions about their need for protection they may use a support person to speak on their behalf.

**It is reasonable for victims of crime to expect that:**
- Where there are concerns about a victim’s safety, these will be communicated to the prosecutor.
- The safety needs and concerns of victims of crime will be raised by the police prosecutor or the Office of the Director of Public Prosecutions’ prosecutor before the court on a bail application.

**Who is responsible to uphold this right?**
- Office of the Director of Public Prosecutions
- NSW Police Force
- NSW Department of Attorney General and Justice courts and tribunals
In some circumstances special conditions are made by the court when an offender is granted bail. Some of these conditions may relate to no contact with the victim or specific reporting requirements to ensure the victim remains safe.

It is important to note that should a victim, or their representative, wish to be kept updated regarding bail conditions they must ensure that contact details are updated (see Appendix C).

**It is reasonable for victims of crime to expect that:**

**NSW Department of Attorney General and Justice courts and tribunals will:**
- update information on the relevant database within one day, the results of bail decisions.

**NSW Police Force will:**
- when the Officer-in-Charge/the investigating officer has been notified of the results of a bail application, inform the victim about the bail conditions as a priority; and
- provide information arising from bail hearings in the Children’s Court and proceedings before the Mental Health Review Tribunal will also be conveyed to them as a priority.

**Who is responsible to uphold this right?**
- NSW Department of Attorney General and Justice courts and tribunals
- NSW Police Force
- Office of the Director of Public Prosecutions
This right applies to victims of serious personal violence (see Appendix B).

**It is reasonable for a victim of a crime to expect that:**

**NSW Department of Attorney General and Justice courts and tribunals will:**
- update information on the relevant database within one day, the results of bail decisions.

**NSW Police Force will:**
- when the Officer-in-Charge/the investigating officer has been notified of the results of a bail application, inform the victim about the bail conditions as a priority; and
- convey information arising from bail hearings in the Children's Court and proceedings before the Mental Health Review Tribunal to the victim as a priority.

**Who is responsible to uphold this right?**
- NSW Department of Attorney General and Justice courts and tribunals
- NSW Police Force
A Victim Impact Statement is a written statement about the impact that a crime has had on the victim. A Victim Impact Statement may be provided after an offender has been convicted and before the sentence is imposed. Not all victims are entitled to complete a statement nor is it mandatory to complete a statement. The Crimes (Sentencing Procedure) Act 1999 provides a definition of victims of crime entitled to write a Victim Impact Statement.

**It is reasonable for victims of crime to expect that:**
- They will be advised if they may be eligible to make a Victim Impact Statement.
- They will be made aware of the ability to prepare and read a Victim Impact Statement as soon as practicable after the conviction of the offender.
- They will be referred to the appropriate agency for assistance with the preparation of a Victim Impact Statement.
- They will be advised about the purpose and process of a Victim Impact Statement.
- Service providers assisting in the preparation of Victim Impact Statements will make victims aware that they may be cross-examined on their Victim Impact Statement.
- Once a court has accepted a Victim Impact Statement, the victim (or their representative) will be entitled to read all or part of the statement to the court.
- Where relevant services are not involved, they will be referred in a timely manner to the Victims Access Line, who will provide information about preparing a Victim Impact Statement. The Victims Access Line will send an information pack to a victim within three working days.

**Who is responsible to uphold this right?**
- Office of the Director of Public Prosecutions
- NSW Police Force
- NSW Health
- Nominated non-government service providers, including Homicide Victims Support Group, Mission Australia, Victims of Crime Assistance League, Child & Adolescent Sexual Assault Counselling, Victims/Witnesses of Crime Court Support.
- Victims Services
There are three Victims Registers run by Corrective Services NSW, Mental Health Review Tribunal and Juvenile Justice NSW.

Eligible victims may be entitled to have their names listed with a Victims Register, if the accused has been found guilty of certain offences. Once registered, the agency will provide certain information about an offender or forensic patient.

**It is reasonable for a victim of a crime to expect that:**

- They are provided with information about Victims Registers throughout the criminal justice process.
- The Victims Access Line will immediately respond to any initial enquiries from victims who would like to go on a Register.

**In addition:**

**Victims Registers will:**

- record the names and contact details of victims who have asked to be registered in order to receive information about an offender or forensic patient;
- facilitate victims making submissions to relevant decision-making authorities in line with applicable legislation for each organisation;
- provide victims of crime who have safety concerns about the release of an offender, with information that will assist them in taking the steps they feel are necessary for their own protection; and
- advise the victim:
  - of the offender’s proposed release date
  - if the offender escapes
  - of any change in security classification that results in the offender being eligible for unescorted absence from custody
  - if an offender’s release is to be considered by a releasing authority
  - if an offender is returned to custody having breached the conditions of parole
  - if the revocation is subsequently rescinded and the offender is returned to the community prior to expiry of the sentence in full, in relation to which they are registered.

**Corrective Services Victims Register (for adult offenders) will also:**

- provide a summary of the offender’s status within 10 working days of receipt of the application form to the registered victim; and
- inform a registered victim of an escape from custody by the next working day.
Juvenile Justice Victims Register (for juvenile offenders) will also:
- provide 10 working days notice prior to the offender being transferred to an adult correctional facility;
- advise registered victims of any impending unescorted release or approximate release date of the detainee into the community at least 10 working days prior to the release occurring; and
- inform the registered victim within 24 hours if a detainee escapes or fails to return from leave.

Mental Health Review Tribunal Victims Register (for forensic patients) will also:
- notify the registered victim of Tribunal reviews at least three weeks prior to a Tribunal review;
- advise registered victims 28 days from the date that the Tribunal has issued a new order in relation to leave or release;
- notify registered victims of an escape, or an alleged breach of leave, or release, as soon as practicable; and
- provide information about the forensic system, Tribunal hearings, and information on submitting applications to the Tribunal.

Who is responsible to uphold this right?
- All government departments working with victims of crime, or those that come in contact with victims of a crime are obliged to advise them of the existence of Victims Registers. For more specific information they should be referred to the relevant agencies.
- Non-government organisations funded by the State to provide services to victims of crime are obliged to advise them of the existence of Victims Registers. For more specific information they should be referred to the relevant agencies.
- Private contractors funded by the State to provide services to victims of crime are obliged to advise them of the existence of Victims Registers. For more specific information they should be referred to the relevant agencies.

Specific responsibilities in relation to the administration and operation of Victims Registers:
- Victims Services
- Corrective Services NSW
- Mental Health Review Tribunal, Ministry of Health
- Juvenile Justice NSW
In deciding whether or not the release of an offender or a forensic patient is appropriate and in the public interest, the relevant decision making authority, i.e. the State Parole Authority, Mental Health Review Tribunal or the Children’s Court (in its jurisdiction as a parole board), is required by law to consider a wide range of matters. These matters include the likely effect on the victim and their family.

Eligible victims require information about making a submission to these authorities.

Victims Registers are run by Corrective Services NSW, Juvenile Justice NSW and Mental Health Review Tribunal.

It is reasonable for a victim of a crime to expect that:

- Service providers will be aware of and provide timely advice to victims about the Victims Registers.

In addition:

Victims Registers will:

- facilitate victims making submissions to relevant decision-making authorities in line with applicable legislation for each organisation;
- provide victims with two weeks written notice when inviting a written submission concerning any change that would result in a serious offender being eligible for unescorted absence from custody;
- provide adequate notice when inviting a written submission concerning parole or release;
- provide support to a registered victim in understanding complex classification, parole or release consideration processes;
- provide advice to a victim in drafting a written submission;
- provide advice of the decision to grant or deny a security classification that would result in a serious offender being eligible for unescorted absence from custody or parole; and
- provide advice of any special conditions imposed if external leave or parole is granted.

Corrective Services NSW Victims Register (for adult offenders) will also:

- provide six weeks notice when inviting a written submission concerning parole;
- provide advice when a written submission has been received and forwarded on;
- provide advice regarding public hearings and provide support to attend and advice on making oral submissions; and
- provide advice on accessing documentation available to inform State Parole Authority decision-making concerning the steps taken by the offender to address his/her offending behaviour.
Juvenile Justice NSW Victims Register (for juvenile offenders) will also:
- advise the registered victim at least 10 days before the submission of the report to the Children’s Court (in its jurisdiction as a parole board); and
- advise the registered victim within two weeks prior to the detainee’s impending release

Mental Health Review Tribunal Victims Register (for forensic patients) will also:
- provide information about the forensic system, Tribunal hearings, and information on submitting applications to the Tribunal.

Who is responsible to uphold this right?
- All government departments working with victims of crime, or those that come in contact with victims of a crime are obliged to advise them of the existence of Victims Registers. For more specific information they should be referred to the relevant agencies.
- Non-government organisations funded by the State to provide services to victims of crime are obliged to advise them of the existence of Victims Registers. For more specific information they should be referred to the relevant agencies.
- Private contractors funded by the State to provide services to victims of crime are obliged to advise them of the existence of Victims Registers. For more specific information they should be referred to the relevant agencies.

Specific responsibilities in relation to the administration and operation of Victims Registers:
- Victims Services
- Corrective Services NSW
- Mental Health Review Tribunal, Ministry of Health
- Juvenile Justice NSW
If a victim of a crime has been injured by an act of violence, such as an assault, domestic violence or sexual assault that took place in NSW, they may be eligible for further support and financial assistance.

Financial assistance can be applied for if a victim of a crime is injured while trying to prevent someone from committing an act of violence, in NSW.

Financial assistance can be provided to a victim for their immediate needs for support and security. Further financial assistance may be paid to aid a victim’s rehabilitation and recovery to eligible applicants. A recognition payment, which acknowledges the trauma suffered, can also be paid.

**It is reasonable for a victim of a crime to expect that:**

- Service providers, provide victims with information regarding their right to seek financial assistance as a result of physical and/or psychological injuries suffered as a result of a criminal act.
- They are referred in the first instance to the Victims Access Line for information about eligibility and limitations.
- Service providers such as the NSW Trustee and Guardian will identify clients, under financial management or with a trust, who may be victims of crime and refer them to Victims Services for assistance.

**In addition:**

**NSW Department of Attorney General & Justice – Victims Services will:**

- provide a first point of contact to victims of crime and provide immediate information about services and remedies, and make referrals (as appropriate) to assist victims in meeting their needs.
- process applications for immediate financial assistance within 15 working days of receipt of a completed application
- process applications and issue an acknowledgment letter for financial assistance and/or recognition payment within 15 working days of receipt of a completed application form.
- within 10 days of a decision being made, enter and verify the decision. A letter will then be sent to the victim informing them of the decision made.

**Who is responsible to uphold this right?**

- All government departments working with victims of crime, or those that come in contact with victims of a crime.
- Non-government organisations funded by the State to provide services to victims of crime.
- Private contractors funded by the State to provide services to victims of crime
Service providers that assist victims of crime aim to meet the needs of their clients. However, if a victim of a crime has a concern that the agency has not met the standards set out in the Charter then they have the right to make a complaint.

It is the key responsibility of all service providers – government and non-government as well as private contractors (funded by the State), to provide information to victims of crime regarding the procedure for filing complaints in relation to the delivery of services or treatment of an individual in relation to the Charter.

**It is reasonable for victims of crime to expect that:**

- Service providers will have their own complaints procedures relating to the Charter, including procedures on how to make a complaint to Victims Services.
- They will be advised how to make a complaint should the victim wish to do so.
- Victims can contact Victims Services to make a complaint about an alleged breach of the Charter, if they are unable to resolve the issue with the service provider in the first instance.
- Victims Services will use its best endeavours to resolve the complaint within 30 working days of receiving the complaint with the agency they are dealing with.

**Who is responsible to uphold this right?**

- All government departments working with victims of crime, or those that come in contact with victims of a crime.
- Non-government organisations funded by the State to provide services to victims of crime.
- Private contractors funded by the State to provide services to victims of crime.

**Service standards and obligations in relation to complaint procedures**

The list on the following page outlines the complaint procedures regarding each agency. (Information regarding the complaints procedures can be located on relevant agency websites.)
NSW Department of Attorney General and Justice – Victims Services

NSW Police Force

Office of the Director of Public Prosecutions

NSW Health
Go to www.health.nsw.gov.au for information on how to make a complaint regarding a NSW Health organisation. Refer also to brochure Your Health Rights and Responsibilities (pp. 19-41).

NSW Department of Attorney General and Justice Courts and Tribunal Services
Go to www.localcourt.lawlink.nsw.gov.au to view the NSW Courts and Tribunal Services Client Service Charter.

Juvenile Justice NSW
Go to www.djj.nsw.gov.au for information regarding complaints processes.

Corrective Services NSW
Go to www.correctiveservices.nsw.gov.au if you wish to register a complaint or refer to the publicly available complaints management policy.

Legal Aid NSW

Mental Health Review Tribunal
Go to www.mhrt.nsw.gov.au for information about appeals or complaints.

NSW Ombudsman
Go to www.ombo.nsw.gov.au to find out which complaints can be managed by the NSW Ombudsman. You may also contact 1800 451 524.

NSW Parole Authority

Australian Psychological Society (APS)
Go to www.psychology.org.au to make a complaint about the ethical conduct of a psychologist registered with APS. You may also call 1800 333 497.

Australian Association of Social Workers (AASW)
Go to www.aasw.asn.au to complain about the ethical conduct of a Social Worker registered with AASW. You may also call (02) 6232 3900.

Royal Australian & New Zealand College of Psychiatrists (RANZCP)
Go to www.ranzcp.org to complain about the ethical conduct of a psychiatrist registered with RANZCP. You may also call (02) 9660 1113.

Non-government service providers
For specific complaints procedures please ask the agency to which you are seeking services about their complaints procedure.

There is an extensive list of community service providers that provide practical and emotional support to victims of crime in NSW. Non-government service providers have agreed that this Charter right applies to their work and that if an individual wishes to make a complaint in relation to the service they receive they should consult the complaints procedures available from that particular agency.
1 **Courtesy, compassion and respect**
   A victim will be treated with courtesy, compassion, cultural sensitivity and respect for the victim’s rights and dignity.

2 **Information about services and remedies**
   A victim will be informed at the earliest practical opportunity, by relevant agencies and officials, of the services and remedies available to the victim.

3 **Access to services**
   A victim will have access where necessary to available welfare, health, counselling and legal assistance responsive to the victim’s needs.

4 **Information about investigation of the crime**
   A victim will, on request, be informed of the progress of the investigation of the crime, unless the disclosure might jeopardise the investigation. In that case, the victim will be informed accordingly.

5 **Information about prosecution of accused**
   (1) A victim will be informed in a timely manner of the following:
       (a) The charges laid against the accused or the reasons for not laying charges,
       (b) Any decision of the prosecution to modify or not to proceed with charges laid against the accused, including any decision to accept a plea of guilty by the accused to a less serious charge in return for a full discharge with respect to the other charges,
       (c) The date and place of hearing of any charge laid against the accused,
       (d) The outcome of the criminal proceedings against the accused (including proceedings on appeal) and the sentence (if any) imposed.
   
   (2) A victim will be consulted before a decision referred to in paragraph (b) above is taken if the accused has been charged with a serious crime that involves sexual violence or that results in actual bodily harm or psychological or psychiatric harm to the victim, unless:
       (a) The victim has indicated that he or she does not wish to be so consulted, or
       (b) The whereabouts of the victim cannot be ascertained after reasonable inquiry.

6 **Information about trial process and role as witness**
   A victim who is a witness in the trial for the crime will be informed about the trial process and the role of the victim as a witness in the prosecution of the accused.

7 **Protection from contact with accused**
   A victim will be protected from unnecessary contact with the accused and defence witnesses during the course of court proceedings.

8 **Protection of identity of victim**
   A victim’s residential address and telephone number will not be disclosed unless a court otherwise directs.
9 Attendance at preliminary hearings
A victim will be relieved from appearing at preliminary hearings or committal hearings unless the court otherwise directs.

10 Return of property of victim held by State
If any property of a victim is held by the State for the purpose of investigation or evidence, the inconvenience to the victim will be minimised and the property returned promptly.

11 Protection from accused
A victim's need or perceived need for protection will be put before a bail authority by the prosecutor in any bail application by the accused.

12 Information about special bail conditions
A victim will be informed about any special bail conditions imposed on the accused that are designed to protect the victim or the victim's family.

13 Information about outcome of bail application
A victim will be informed of the outcome of a bail application if the accused has been charged with sexual assault or other serious personal violence.

14 Victim Impact Statement
A relevant victim will have access to information and assistance for the preparation of any Victim Impact Statement authorised by law to ensure that the full effect of the crime on the victim is placed before the court.

15 Information about impending release, escape or eligibility for absence from custody
A victim will, on request, be kept informed of the offender's impending release or escape from custody, or of any change in security classification that results in the offender being eligible for unescorted absence from custody.

16 Submissions on parole and eligibility for absence from custody of serious offenders
A victim will, on request, be provided with the opportunity to make submissions concerning the granting of parole to a serious offender or any change in security classification that would result in a serious offender being eligible for unescorted absence from custody.

17 Financial assistance for victims of personal violence
A victim of a crime involving sexual or other serious personal violence is entitled to make a claim under the Victims Support Scheme.

18 Information about complaint procedure where Charter is breached
A victim may make a complaint about a breach of the Charter and will, on request, be provided with information on the procedure for making such a complaint.
The list of serious personal violence offences includes:

- Homicide (including murder and manslaughter, dangerous driving causing death)
- Assault
- Offences relating to sexual assault and rape
- Kidnapping and Abduction
- Child prostitution and child abuse material
- Child abuse offences
- Acts causing dangers to life and bodily harm
- Domestic or family violence offences
- Home Invasion resulting in personal bodily harm.
- Terrorist acts
- Human trafficking offences
- Destroying or damaging property with intent to injure or endanger life
- Failure to provide the necessities of life
- Wounding with intent
- Using poisons to endanger life
Victims also have a responsibility to service providers to assist them to carry out their work and enable them to adhere to the Charter of Victims Rights.

In order to do this, victims need to:

- advise how they would like to be contacted. For example phone, email, face-to-face contact;
- provide their current name, telephone number/mobile phone number or email address;
- update any changes to the contact information provided within a reasonable timeframe;
- provide consent for information about them to be shared with identified service providers;
- identify and describe the relationship of the nominated preferred representative and provide their contact details;
- in the case of children, nominate a parent or guardian and provide current contact details (as above) with whom service providers can make contact;
- in homicide matters, nominate a person who represents the family and provide current contact details (as above) whom service providers can contact; and
- once notified by police that their property is available for collection, advise police within 28 days, whether they want to collect and take their property or not. After 28 days police may destroy any uncollected property.
Victims Services is a part of the NSW Department of Attorney General and Justice. We provide support for victims of crime throughout their involvement with the criminal justice system. The Victims Access Line provides a single entry point for victims of crime in NSW to assist them in accessing services. You can contact the Victims Access Line on:

Phone ................................................................................................................................................................................................................. 1800 633 063

For more information about the NSW Code of Practice or the services and support Victims Services can provide for victims of crime, please contact:

Phone ................................................................................................................................................................................................................. 1800 633 063
Sydney metropolitan area ........................................................................................................................................................................... (02) 8688 5511
Aboriginal Contact Line ............................................................................................................................................................................... 1800 019 123
Fax.................................................................................................................................................................................................................... (02) 8688 9632
Email .................................................................................................................................................................................................... vs@agd.nsw.gov.au
Website........................................................................................................................................................................... www.lawlink.nsw.gov.au/vs
Address all mail to ................. The Commissioner, Victims Services, Locked Bag 5118, Parramatta NSW 2124

Note: Calls to the 1800 numbers are free, however additional charges may apply for calls from pay phones, mobiles or some home phone plans.