

## Regulatory Impact Statement

### **Enhancing Victims' Rights Review**

#### **Disclosure Statement**

This Regulatory Impact Statement has been prepared by the Ministry of Justice. It analyses proposals that aim to ensure criminal justice agencies are more responsive and accountable to victims of crime; and to enhance victims' rights and roles in criminal justice processes.

The Enhancing Victims' Rights Review has been informed by a public consultation process, consultation with key stakeholders and government agencies, and information from other sources including the Justice and Electoral Select Committee's 2007 Inquiry into Victims' Rights, the New Zealand Crime and Safety Survey 2006 (NZCASS), the 2006 Audit New Zealand Victim Notification System Review: Report on Stage 2 Review, and international literature on victims' issues.

The Ministry of Justice has identified three broad concerns facing victims of crime:

- victims find it frustrating dealing with multiple government agencies to get information about the criminal justice system, their rights, and services;
- the mechanisms for making criminal justice agencies accountable for the information they provide or the services they deliver to victims are weak; and
- many victims find the current criminal justice processes bewildering and feel that they do not have any role in the criminal case involving them.

The proposals in the attached cabinet papers aim to improve the accountability of criminal justice agencies to victims, victims' experiences in the criminal courts and the victim notification system. A separate cabinet paper also addresses the role of victims in the youth jurisdiction. Many of the proposals require legislative amendments as they expand the rights of victims currently provided for in the Victims' Rights Act 2002.

The proposals are constrained by:

- the costs of implementation;
- the need to be consistent with the New Zealand Bill of Rights Act 1990;
- the need to be consistent with current criminal justice processes; and
- the scope of the review - the proposals address victims' rights in the criminal justice system, including police investigative processes, criminal court processes and the corrections system. The proposals do not address the needs of those victims of crime who do not report the crime to the Police.

The proposals have also taken into account the need to be responsive to the needs of Māori victims and the special needs of victims of domestic and/or sexual violence.

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Date:

## **Status quo and problem definition**

NZCASS estimated the level of unreported and reported crime experienced by New Zealanders aged over 15 years in 2008. The NZCASS *Key Findings* report indicated that in 2008:

- thirty six percent of people experienced some form of victimisation;
- assaults made up 27% of all offences, and threats just over 21%;
- thirty-three per cent of all offences were reported to the Police (reporting rates varied by type of offence); and
- six percent of victims experienced 54% of the victimisations.

NZCASS 2006 also found that the risk of victimisation was high for: young people, sole parents, those who were unemployed and/or on a benefit, and those living in rented property, or in the most deprived areas of New Zealand. Participants who identified as Māori had a higher risk of victimisation across all offence types. Overall, 47% of Māori were victims of crime, compared with 37% for those categorised as European. Māori were also more likely to be victimised multiple times, and for more serious offences. Risk factors associated with the Māori population contribute to this risk, such as having a young population and living in socially disordered or economically deprived areas.

### ***The Victims' Rights Act 2002***

The Victims' Rights Act 2002 (the Act) outlines the principles that guide the treatment of victims. The provisions of the Act are consistent with the current criminal justice system laws and processes, and the New Zealand Bill of Rights Act 1990.

Under the Act, victims are to be provided with certain information about the services they are eligible for and about the progress of their case through the courts. Victims are also able to provide the Courts with information on the impact of the offences on them. However, in regard to victims of certain interpersonal offences, the Act also ensures that victims are entitled to receive notification of certain events particularly custody and parole matters relating to the accused or offender.

### ***The need to improve the role of victims in the criminal justice system***

For the purposes of this review, the Ministry identified the problems, issues and potential solutions using information from a wide range of sources. The most important sources of information included:

- submissions to and the findings of the Justice and Electoral Select Committee's 2007 Inquiry into Victims' Rights. The Victims' Inquiry arose from a concern about the way victims were treated in the New Zealand criminal justice system;
- the 2006 Audit New Zealand Victim Notification System Review: Report on Stage 2 Review. Audit New Zealand reviewed the Victim Notification System (VNS) and found there is a lack of awareness and understanding by the criminal justice agencies of the requirements under the Victims' Rights Act, inconsistent information being provided to victims, and too few eligible victims registering;
- consultation with government and non-government agencies that provide information and support to victims of crime during March and April 2009;
- public submissions received on the consultation document – *A Focus on Victims of Crime: A Review of Victims' Rights*; and
- the consultation undertaken for the purposes of completing the Cabinet papers.

From the analysis of these sources the Ministry concluded that victims' concerns fall into three broad categories:

- victims of crime find it frustrating having to deal with multiple government agencies to get information about the criminal justice system, their rights and how to access services;
- there are weak mechanisms to make criminal justice agencies accountable for the services they deliver to victims; and
- many victims find the current criminal justice processes bewildering. Victims often feel they do not have any role in the criminal case involving them and do not know what is happening.

## **Objectives**

The aim of the review is to improve government agencies responsiveness and accountability to victims of crime, and to enhance victims' rights and role in criminal justice processes. Together the proposals will:

- increase victims' engagement in the court process;
- ensure some court processes more directly address the needs of victims;
- provide victims with more notifications about their associated offender when the offender is in custody or serving a sentence of home detention; and
- ensures that those agencies that provide services to victims are more accountable to victims for the delivery of those services.

The benefits of a more responsive criminal justice system are twofold:

- a more responsive criminal justice system would assist in reducing the negative impact of crime on individuals and on our society. If victims recover quickly from their experience of any criminal offending committed against them, the outcome for victims and all concerned with the victim will be more positive; and
- a more responsive criminal justice system would also enhance the effectiveness of, and public confidence in, the criminal justice system. Such confidence is necessary for those victimised by crime and for the whole community. Minimising, or failing to recognise, the harm crime imposes on victims may cause victims to become disillusioned, and withdraw their cooperation from the formal justice system. This cooperation is essential to the effectiveness of the criminal justice system, to ensure victims report crimes and also because it is often the victim's information which leads to the conviction of the offender.

Requiring government agencies to be more accountable for their services towards victims is essential to ensure their services are effective at meeting the needs of victims.

## **Regulation impact analysis**

To address victims' concerns, the consultation document included 24 preliminary proposals. In developing these proposals we were mindful of the current criminal justice principles and processes, and the cost of the proposals. The proposals fell into four broad areas:

- accountability towards victims of crime;
- improving victims' experience in the criminal courts;
- the victim notification system; and
- victims of child and youth offenders.

The issues addressed, the options considered, and the proposed options are outlined in the attached table.

## **Consultation**

The Ministry has conducted an extensive consultation process for this review of victims' rights. As part of preliminary consultation in March and April 2009, prior to development of the consultation document, the Ministry met with the Chief Justice, the Chief Judges of the Family, Youth and District Courts, the New Zealand Council of Victim Support Groups (Victim Support), Sensible Sentencing Trust, the NGO Alliance associated with the Taskforce for Action on Violence within Families (the Taskforce), and Te Ohaakii A Hine - National Network Ending Sexual Violence Together (TOAHNNEST). The Māori Reference Group and Pacific Advisory Group of the Taskforce were also approached.

During the development of the consultation document, the cabinet paper and this regulatory impact statement the following agencies were consulted: Accident Compensation Corporation, Office of the Children's Commissioner, Department of Corrections, Crown Law Office, Office of Ethnic Affairs, Families Commission, Ministry of Health, Department of Labour, Law Commission, Ministry of Pacific Island Affairs, Parole Board, NZ Police, Privacy Commission, Ministry of Social Development (including Child, Youth and Family), Te Puni Kōkiri, and Ministry of Women's Affairs.

The Department of the Prime Minister and Cabinet and the Treasury was informed.

## **Conclusions and recommendations**

See attached table.

## **Implementation**

Implementing and ensuring the ongoing delivery of the proposals associated with this cabinet paper will affect a wide range of government agencies.

The proposals will improve victims' experiences of the criminal justice sector and will ensure the criminal justice sector is more responsive to meeting their needs. However, the proposals will impose costs on: the NZ Police, the Ministry of Justice (including the Courts), and on the Department of Corrections and the NZ Parole Board. These agencies will be responsible for:

- improving their services to victims;
- creating administrative systems and/or new processes;
- training staff;
- revising any information or advice to victims and to the public; and
- amending their computer systems and data bases.

The period of time during which legislative change is progressed in the House will enable some of this service design work to be undertaken. Some of the proposals will be phased in, reducing initial costs and allowing agencies to more effectively implement them. As indicated in the cabinet paper this work will be undertaken and completed within current baselines.

Agencies have indicated that to successfully implement some of the proposals they will need to look to reprioritise funding from other areas. If funding can not be re-prioritised to provide these additional resources then this may result in pressure on services and service delivery may be affected. These proposals include:

***Enhancing communications between victims and prosecutors***

This proposal seeks to encourage greater dialogue between prosecutorial agencies and the victims of certain offences. The proposal has been constructed in a manner to minimise the cost of the proposal by providing flexibility as to how it may be implemented. This includes the provision to enable prosecutorial agencies to delegate responsibilities for contact with victims.

***Notifying victims of the outcome of bail hearings***

This proposal will require victims of a certain offence who have submitted a view on bail, to be notified about the outcomes of that hearing. The responsibility for notifying these victims will be shared between the Police and court staff (who already inform victims about court events if the victim is registered for Court Services for Victims).

***Providing victims of child and youth offenders with automatic access to the Youth Court***

Court Services for Victims are not currently available to victims who are involved with proceedings in the Youth Court. If victims are provided with an automatic right to attend hearings in the Youth Court, it is appropriate that they also have access to Court Services for Victims.

***Proposals relating to Victim Impact Statements in the adult and in the youth jurisdiction***

The proposals relating to improving victims' experience at court may have an impact in terms of increased time taken at hearings, such as the time taken for victims to read their victim impact statement to the court.

The proposals will also impact on: the Ministry of Health, the Department of Labour, ACC, Crown Law, the Privacy Commission, the office of the Ombudsmen, and the Independent Police Conduct Authority. The implementation requirements on these agencies are, however, small and capable of being readily implemented.

**Monitoring, evaluation and review**

The improvements to the Victims' Rights Act 2002 and related legislation will be monitored by the operational staff of the Police, Courts and Corrections who will take immediate action if the proposals are not successful at meeting the needs of victims. These agencies may adjust their processes as experience of their implementation unfolds.

The Ministry of Justice will review the new measures following implementation. This review will involve consultation with key stakeholders in order to assess the success of the measures and whether they need to be refined or amended.

## A REGULATORY IMPACT ANALYSIS TABLE

### ACCOUNTABILITY TOWARD VICTIMS

Status Quo / Issue / Objective	Options / Conclusions	Recommendations
<p><b>Status Quo</b></p> <p>Currently victims' rights and the services available to them are outlined in the Victims' Rights Act and related legislation, and in agencies' guidelines, manuals and websites. Agencies are only accountable to victims of crime to the extent that victims are aware of their entitlements or where internal processes encourage accountability for the delivery of services.</p> <p><b>Issue</b></p> <p>Victims of crime need to know what their rights are, how to exercise them, and have ready access to information and services.</p> <p>Currently, there is no way for victims to easily identify what information and services they are entitled to.</p> <p>Neither is there any way criminal justice agencies can be made accountable for the effectiveness or quality of the information and services they deliver or fail to deliver to victims.</p> <p>As the issues driving these proposals</p>	<p>The Ministry considered options that included establishing: a Victims' Centre, a Code of Practice, and/or a Victims of Crime Complaints Officer role. Another option was to require government agencies to include an overview of their services to victims and complaints received in their Annual Report to Parliament. The options could be combined.</p> <p><b>Victims Centre</b></p> <p>Models from overseas jurisdictions were considered for establishing a Victims Centre. These models included a Victims of Crime Bureau; a Victims Support Agency; or a Victims of Crime Coordinator. The functions proposed for a Victims Services Centre in the discussion document were based on the functions that these agencies shared: to be a central point of contact for victims; provide and co-ordinate information resources for victims; co-ordinate the contracting of services for victims; and to facilitate a network of agencies providing services for victims. Submitters supported this approach but expressed concerns that a Victims Services Centre would duplicate services already delivered.</p> <p>The final proposal was to establish a small Victims Centre in the Ministry of Justice. The change of name makes it clear that the Centre will not directly deliver services. The Ministry will review the Victims Centre positions after 12 months of operation and provide the Minister of Justice with further advice about the future structure and role of the centre.</p> <p><b>Victims Code</b></p> <p>A code of practice to provide victims of crime with information about what services they should expect from the criminal justice sector</p>	<p>We recommend:</p> <ul style="list-style-type: none"> <li>• A Victims Centre that will provide an overview of victims services and information across government.</li> <li>• A Victims Code that will provide victims with (a) information about what government services are available to them, and (b) will provide better access to the current complaints processes. The Victims Code will also require agencies to put in place feedback mechanisms to ensure they are responsive to victims.</li> <li>• All government criminal justice sector agencies will be required to include in their Annual Report to Parliament details of their services to victims and the complaints received.</li> </ul>

Status Quo / Issue / Objective	Options / Conclusions	Recommendations
<p>were with the status quo, the preferred option is for legislative change.</p> <p><b>Objective</b></p> <p>The objective of the proposals are to:</p> <ul style="list-style-type: none"> <li>• Provide easily accessible information to victims on their entitlements from key agencies and NGOs that provide services to victims, in the one place.</li> <li>• Ensure the agencies are accountable to victims for delivering these services.</li> </ul>	<p>agencies and what they are entitled too was proposed, and supported by submissions to the consultation document. A code could also encourage agencies to seek feedback from victims so they have the necessary information required to improve their services.</p> <p><b>Victims of Crime Complaints Officer</b></p> <p>The Ministry considered options to support the code of practice by either establishing a complaints role in the Victims Centre, or a Victims of Crime Complaints Officer role in the Ministry of Justice. These options were not selected because the current the volume of complaints is low, and it is difficult to justify the cost of a full time statutory officer to deal with such a low volume. Strengthening the current complaints processes and requiring agencies to seek feedback on their services from victims is more likely to be a successful option for securing more responsive services to victims.</p> <p><b>Annual Reports</b></p> <p>The proposal to require government criminal justice sector agencies' Annual Reports that are tabled in Parliament to provide an overview of the agencies' interactions with victims of crime was well supported, and is a cost effective proposal that complements the Victims Code.</p>	

## IMPROVING VICTIMS EXPERIENCES OF THE CRIMINAL COURTS

Status Quo / Issue / Objective	Options / Conclusions	Recommendations
<p><b>Status quo</b> Victims have a limited role in the case involving them. The State prosecutes the case on behalf of the victim, who is updated on the progress of the case and is able to participate to a certain extent at different parts of the case (bail, sentencing, parole, and deportation).</p> <p><b>Issue</b> Victims have raised many issues about their experiences with criminal case processes. Victims have commented that they do not always know what is happening with their case, or feel they do not have any role in the case involving them. Many victims would like more support, information and a say during the court process. The status quo is not a viable option because the victims are not satisfied with their current role and responsibilities.</p> <p><b>Objective</b> The objectives are to:</p> <ul style="list-style-type: none"> <li>• provide for more involvement of the victim in the case involving them;</li> <li>• give victims a greater say during the court process; and</li> <li>• improve the contact and service provided to victims during the case.</li> </ul>	<p>There are many possible proposals that will improve victims' experiences of the criminal courts. A constraint on the development of the proposals is that they have to be consistent with current criminal justice principles and processes. This constraint rules out any measures that require additional court processes to be established or undermine offenders' right to a fair trial.</p> <p>Generally the preferred option has been arrived at by balancing the benefits of the proposal to victims with the costs that it may impose on the criminal justice system, as the proposals will be implemented within current baselines.</p> <p><b>Providing for more involvement of the victim in the case involving them</b></p> <p><b><u>Victims meeting Prosecutors</u></b></p> <p>The preferred option was to ensure that prosecutors (or their delegate) contact victims of certain offences, and that they offer to meet victims of sex offences, or the families of victims who have been killed as the result of a criminal offence. The option that prosecutors must meet all victims is not appropriate – a large number of victims are not particularly interested in engaging with Police and court processes for minor offences.</p> <p>The Ministry of Justice considered the option of legislating for these requirements. On balance, it was determined that Crown prosecutors already fulfil these contact requirements and legislating for the requirements may impose unintended and costly restrictions on the practice of Police and Crown prosecutors. Instead we propose that current good practice by Crown prosecutors should be adopted by Police prosecutors. This will therefore be implemented through amendment to Police prosecutors operational guidelines.</p>	<p>We recommend:</p> <ul style="list-style-type: none"> <li>• Enhancing the communication between prosecutorial agencies and the victims of certain offences.</li> <li>• Expanding the scope of Victims' Impact Statements (VISs) by clarifying the purposes in the Act.</li> <li>• Providing the right to read out the Victim Impact Statement in court to victims of certain offences.</li> <li>• Allowing the impact of the offence on persons with whom the victim has a close relationship with to be included in a victim's VIS.</li> <li>• Providing more flexibility in who can be a victim's support person, and making the process for their appointment simpler.</li> <li>• Providing better access to restorative justice processes.</li> <li>• Ensuring victims are aware of their entitlements of have their</li> </ul>

Status Quo / Issue / Objective	Options / Conclusions	Recommendations
	<p><b><u>Restorative Justice</u></b>  The proposal in regard to restorative justice is about providing more choice for victims and raising awareness of restorative justice. Restorative justice always operates on a voluntary basis for both victim and offender so it would not be appropriate to make any restorative justice processes mandatory. In addition, current service provision is limited and so the court can only be required to refer cases where services are available.</p> <p><b>Giving victims a greater say during the court process</b></p> <p>A number of options were considered regarding the content of Victim Impact Statements (VISs).</p> <p><b>Option 1:</b> To place no limits on a VIS (besides removal of ‘offensive’ language). This option has been raised by some victims groups.</p> <p><b>Option 2:</b> The status quo, with prescriptive guidelines explaining what could go in a VIS.</p> <p><b>Option 3:</b> The status quo, with permissive guidelines providing general guidance on the content of the VIS.</p> <p><b>Option 4:</b> To expand the purpose of the VIS in the Victims’ Rights Act and producing guidelines that outline what victims can say.</p> <p>We prefer option 4 as it balances the views raised by submissions, gives victims greater scope in the content of their VIS, and still allowing judges some control over the type of information submitted to the court. The risks of options 2 and 3 are that they would not address the current dissatisfaction of some victims. We consider the benefits to victims of option 1 are outweighed by the risks to the court process, and the potential disadvantages to victims.</p> <p>Some victims groups also feel that victims should have the right to read their VIS in court, but concern has been expressed that this will reduce the Judge’s ability to maintain control in the Court. There is also a risk of court delays if the presentation of VISs takes a lot of court time. The</p>	<p>name and personal details suppressed.</p>

Status Quo / Issue / Objective	Options / Conclusions	Recommendations
	<p>following options were considered:</p> <p><b>Option 1:</b> All victims having the right to read their VIS in court with limited discretion for the Judge to direct otherwise.</p> <p><b>Option 2:</b> All victims having the right to read their VIS in court with no discretion for the Judge to direct otherwise.</p> <p><b>Option 3:</b> Some victims (of certain offences) having the right to read their VIS in court with limited discretion for the Judge to direct otherwise.</p> <p><b>Option 4:</b> Some victims (of certain offences) having the right to read their VIS in court with no discretion for the Judge to direct otherwise.</p> <p>We prefer option 3 as this extends the right to those victims most likely to want to read out their VIS in court, but allows the Judge some discretion where the person reading out the VIS may be an offender or where the length or number of VIS(s) precludes them all being read out. It is difficult to estimate how many victims will choose to read their VIS to the court. Depending on the take-up of the proposal and associated cost, this right could be extended to all victims in the future.</p>	

## THE VICTIM NOTIFICATION SYSTEM

Status Quo / Issue / Objective	Options / Conclusions	Recommendations
<p><b>Status Quo</b></p> <p>The Victim Notification System (VNS) is a process that notifies eligible victims of certain events associated with the offender.</p> <p><b>Issue</b></p> <p>Many victims want to know what is happening and be kept informed of particular events relating to the imprisoned offender or accused who committed the crime against them - such as pending parole hearings, release from prison, or escape from prison. Many victims particularly want to know when the offender is released from prison for safety reasons. Many victims are concerned about how the current VNS works. They want the system to be clear, simple and reliable. Other victims also seem unaware that such a system is available.</p> <p>There is also a general lack of information for victims on how the process works, what information a victim can expect and at what points in the process. The number of agencies and officials involved in providing information to victims under the VNS is also confusing. These features combine to make the VNS</p>	<p>The aims of the proposals relating to the Victim Notification System (VNS) are to:</p> <ul style="list-style-type: none"> <li>• make it easier to register on the VNS;</li> <li>• increase the scope of the VNS;</li> <li>• ensure that relevant victims are notified of the outcome of bail hearings; and</li> <li>• clarify some implementation issues and improve the efficiency of the VNS.</li> </ul> <p><b>Registration and Structure of VNS</b></p> <p>One of the most critical issues relating to the VNS is that many victims do not register, or do not keep their address details up to date.</p> <p><b>Option 1:</b> An “opt out” system, which would mean all victims of “certain offences” would be automatically put on to the VNS and they would have to ask to be taken off. The option would significantly increase the numbers of victims who would have to be registered which would impose heavy costs on the Police. Under the current regime some victims may risk not being registered when they wanted to be. However, under this option, many victims who do not want to receive notifications from the criminal justice sector will receive them.</p> <p>It had also been proposed that victims’ address details be kept up to date by data sharing between central government agencies. However, keeping details up to date by seeking information from databases is not only very expensive, it is unreliable (not all victims are on government databases) and contrary to the Privacy Act (as it involves using data that was collected for another purpose). This option is not therefore viable.</p> <p><b>Option 2:</b> To tailor the VNS so that victims could receive certain notifications depending on their desired level of engagement with the system. This would allow some victims to register and only participate in</p>	<p>We recommend:</p> <ul style="list-style-type: none"> <li>• Court staff as well as Police to inform victims that they have the right to be given notice of specified events.</li> <li>• Require all criminal justice sector agencies to advise victims that if they want to receive information they must ensure their address details on the VNS are up to date.</li> <li>• Victims of offenders sentenced to home detention to receive certain notifications.</li> <li>• Police and court staff to be required to notify all victims of certain offences who submit their views of the outcome of bail and any condition relating to their safety and security.</li> <li>• Notifying victims of breaches of conditions imposed on offenders who receive a short term sentence.</li> <li>• Encourage victims who were children at the time of the offence, to register in their own name once they turn 17.</li> <li>• Clarifying when notifications cease.</li> <li>• Requiring the Parole Board rather than the Department of</li> </ul>

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<p>complicated for victims and prevent some victims from registering.</p> <p><b>Objective</b></p> <p>The objectives are to:</p> <ul style="list-style-type: none"> <li>• improve the current functioning of the VNS; and</li> <li>• extend the scope of the VNS to a wider range of victims.</li> </ul>	<p>parole hearings, or receive no notifications but have their contact details before the Parole Board when a decision about where to parole the offender was made. Tailoring the system in this way creates a risk that victims will not receive notifications in more unusual circumstances such as if the offender escaping or dying in prison.</p> <p><b>Option 3:</b> To require court staff and justice sector officials to inform victims about the VNS and remind victims they must keep their contact details up to date.</p> <p>On balance we believe that option 3 is the best option that will not create unintended consequences for victims, or excessive burden on agencies.</p> <p><b>Expanding the scope of the VNS</b></p> <p>We propose to expand the notifications to victims where the offender was sentenced to home detention. This also raised the question of whether we could provide victims with the notifications about offenders on other community sentences. This creates difficulties about what events to notify victims about as these offenders are free to move around in their community. It would also increase the scope of the VNS significantly, which would be costly. We consider that the scope of the VNS should only be expanded to include those offenders sentenced to home detention.</p> <p><b>Notification of the outcome of bail hearings for victims of section 29 offences who have submitted a view on bail</b></p> <p>Victims of certain offences (under section 29 of the Victims' Rights Act) often have fears for the safety or security of themselves or their family. Prosecutors are currently required to seek the views of these victims on bail. If the victims submit on bail, they do not have a right to be told the outcome of that hearing and of any conditions of bail relating to them or their immediate family.</p> <p>We have considered options regarding which agency should inform the</p>	<p>Corrections to notify victims of a decision to recall an offender to prison.</p> <ul style="list-style-type: none"> <li>• To enable victims to apply to Corrections to provide them with information for each Parole hearing.</li> </ul>

Status Quo / Issue / Objective	Options / Conclusions	Recommendations
	<p>victim about the bail outcome:</p> <ul style="list-style-type: none"> <li>a) the Police, who are responsible for collecting views on bail and presenting them to the court, or</li> <li>b) court staff, who contact victims after the first hearing to offer Court Services for Victims including relevant notifications of court events.</li> </ul> <p>Currently neither the Police nor court staff have mechanisms in place to know the outcome of every bail hearing and the contact details of the relevant victim to make every notification. The conclusion reached is that responsibility for notifications should be split between Police and court staff, depending on whether the case is high-risk or not.</p> <p>Police will be responsible for high-risk cases where an urgent notification is required to ensure the safety of the victim. Court staff will be responsible for all non-urgent notifications of bail to victims who have submitted their views, where court staff have received full contact details of victims from Police or by other means.</p> <p>The Victims Code will set out when a case is considered high-risk; make it clear that Police are responsible for ensuring appropriate mechanisms are in place for contacting and protecting victims in high-risk cases and set out that Police have a responsibility to ensure the transfer of victim information to court staff.</p>	

## VICTIMS OF CHILD AND YOUTH OFFENDERS

Status Quo / Issue / Objective	Options / Conclusions	Recommendations
<p><b>Status Quo</b></p> <p>Through Family Group Conferences (FGC) the youth justice jurisdiction already allows for significantly more input from victims of youth offenders than the adult system does for victims of adult offenders. The FGC process offers the victim influence in the accountability, reparation and rehabilitation process. However, the youth jurisdiction does not offer victims similar rights to adults in the areas of attending the court hearing, and providing a Victim Impact Statement.</p> <p>Currently the Victims' Rights Act gives little guidance as to how its various provisions apply to the processes in the Youth Courts to deal with offending by children and young persons. As a result there is some confusion about its application given the unique nature of the youth justice system.</p> <p><b>Issue</b></p> <p>There are three issues to be addressed. They are:</p> <ul style="list-style-type: none"> <li>• whether victims of child and youth offenders should have the automatic right to attend some Youth Court proceedings (currently they need to seek the Judge's permission); and</li> <li>• whether victims should provide the</li> </ul>	<p><b>Increasing the involvement of victims in the youth jurisdiction</b></p> <p>We have considered whether victims should have the right to attend Youth Court proceedings, and whether victims should be able to provide Victims Impact Statements (VISs) to the Youth Court.</p> <p>Those who commented contrary to the proposals noted that the victims in the youth jurisdiction have a unique opportunity to input into the outcomes of the Family Group Conferences (FGC) and that a shift of focus to the Youth Court hearing is not desirable, as it may reduce the incentive to attend the FGC.</p> <p>We consider that victims of offenders should have similar rights to attend the hearing, whether the offender is an adult or young person. We also consider that the media should not have greater rights to attend Youth Court hearings than victims.</p> <p>In regard to VISs, the Principal Judge noted in his submission that the Youth Court is frequently left without any information from or about the victim. We consider that the Judge should have complete information about the circumstances of the offence when sentencing offenders.</p> <p>We suggest that, should these proposals be accepted, officials undertake further work to ensure continued high levels of victim participation in FGCs and to monitor the impact of the change in legislation on victim participation at FGCs. This work may include:</p> <ul style="list-style-type: none"> <li>• information for victims on the FGC process which emphasises that FGCs are the most effective way that victims can 'hold the offender to account' and express directly to the young person the impact the crime had on them;</li> <li>• training for officials around promoting FGCs;</li> <li>• ensuring the Youth Justice Coordinator can offer a range of support and options for a victim who is reluctant to attend an FGC.</li> </ul>	<p>We recommend that:</p> <ul style="list-style-type: none"> <li>• victims should have the right to attend Youth Court hearings;</li> <li>• victims of children and young people should be able to provide Victim Impact Statements to the Judge as is provided for in the criminal jurisdictions of the High and District Courts; and</li> <li>• amendments are made to clarify the application of the VRA in the youth jurisdiction.</li> </ul>

Status Quo / Issue / Objective	Options / Conclusions	Recommendations
<p>Youth Court with a Victim Impact Statement; and</p> <ul style="list-style-type: none"> <li>the lack of clarity about how the Victims' Rights Act applies to the youth jurisdiction.</li> </ul> <p><b>Objective</b></p> <p>The objectives are to:</p> <ul style="list-style-type: none"> <li>increase the involvement of victims in the youth jurisdiction; and</li> <li>clarify the connection between the Victims' Rights Act and the Children, Young People and Their Families Act 1989.</li> </ul>	<p><b>Clarifying the connection between the Victim Rights Act and Children, Young Persons and their Families Act</b></p> <p>The other proposals in regard to the youth jurisdiction are about clarifying the application of the Victims' Rights Act in the youth jurisdiction and are technical in nature.</p>	