

Improving the Response of the Justice System to Sexual Offences

Submission: Carolyn Worth AM & Mary Lancaster, December 2020

Rationale for an improved response to victim/survivors of sexual assault

Services to victim/survivors of sexual harm are fragmented and provided at various levels, depending on where a person lives in Victoria. The current service system does not seem able to provide a cohesive, state-wide response. Unlike Family Safety Victoria, which was established to give a co-ordinated response for family violence, there is no co-ordinating body for the sexual assault sector although the long-standing Centres Against Sexual Assault (CASA) Forum has been superseded by Sexual Assault Services Victoria (SASVic).

This submission proposes a revised system for an improved response of the Justice System to sexual offences in Victoria including prevention initiatives. For ease of reading, the term ‘**parties involved**’ has been used to describe all the entities, organisations and Departments that make up the whole sector.

It is considered important that the service system should work towards:

- Ensuring that service provision is uniform across the State, which would require some control over auspicing bodies
- Establishing agreed core services and making them available across the State
- Providing a restorative justice option in Victoria, which would include establishing a centralised state-wide service system with capacity to operate regionally and rurally
- Raising the profile of sexual assault services
- Providing a co-ordinating body for the sexual assault sector
- Changing public perceptions around sexual offences
- Closer ties between Community Legal Services, CASAs and other sexual assault services providers.

Scope of this submission

This submission proposes a possible structure for a revised service system. We are of the opinion that a more comprehensive service system would assist the response of the justice system by allowing victim/survivors to deal with their trauma in a variety of settings. It would also future-proof sexual assault responses against departmental restructures and auspice re-organisation.

Suggested service system structure

Oversight and coordination of the suggested service system would be provided through a Commission, with a Commissioner. There would be four delivery streams. The suggested title for this Commission is: **Victorian Commission for the Reduction of Sexual Harm**. The diagram on page 3 illustrates our thoughts about the structure.

Rationale for the suggested service system

- The existing system has no clear structure or chain of command. The fourteen Centres Against Sexual Assault (CASA) have a diverse set of auspices. The other agencies delivering sexual assault services to adults and children and sexually abusive treatment services to children and adolescents have some links but no overall oversight, although several are members of SASVic..

Improving the Response of the Justice System to Sexual Offences

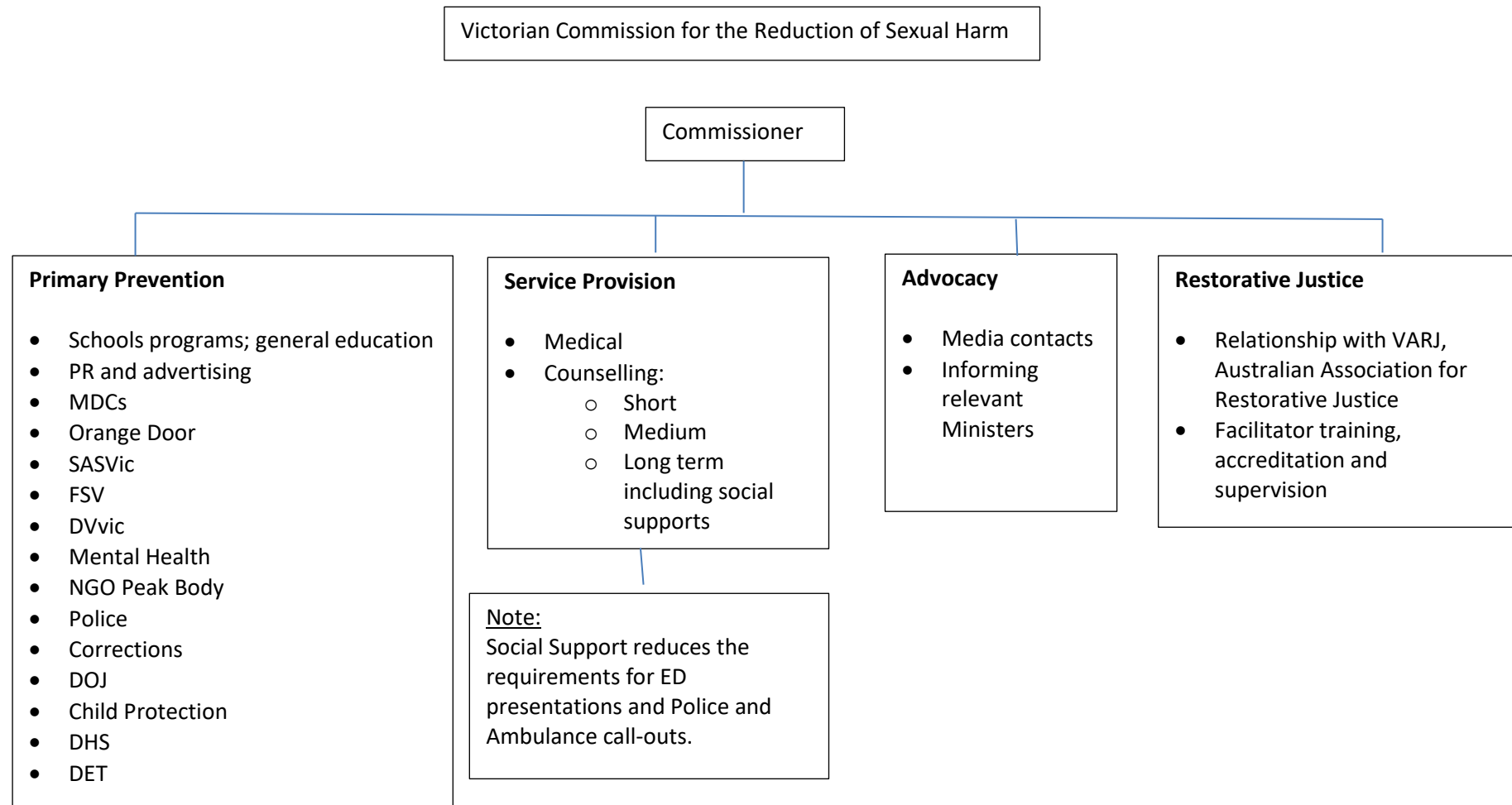
Submission: Carolyn Worth AM & Mary Lancaster, December 2020

- In some cases it is difficult for current issues, which need input from Government, to be brought to the attention of the relevant Ministers due to the structure of the various agencies involved.

- The proposed Commissioner would:
 - Have an overview of the sexual and sexually abusive treatment services (SABTS) sectors which are in a number of cases provided by the same agency
 - Have the authority to bring issues to the attention of Government
 - Advocate for best practice in policy, program and service responses
 - Support all parties involved in delivering sexual assault and sexually abusive treatment services
 - Bring the views and experience of all parties to the attention of Government and the community
 - Lead a state-wide Committee made up of representatives of all parties involved in sexual assault, sexually abusive treatment and family violence service provision, prevention and policy development.

Improving the Response of the Justice System to Sexual Offences

Submission: Carolyn Worth AM & Mary Lancaster, December 2020



Improving the Response of the Justice System to Sexual Offences

Submission: Carolyn Worth AM & Mary Lancaster, December 2020

State-wide Committee

We suggest that a State-wide Committee would meet routinely, with the following aims:

- Networking
- Information sharing
- Service delivery updates
- Identify patterns in problems within service provision
- Identify and assess emerging trends
- Provide the Commission with status reports.

Members of the Committee

The committee would include representatives from:

- Victoria Police
- Corrections
- Department of Health and Human Services
- Department of Education and Training
- NGOs Peak Body
- Family Safety Victoria (FSV)
- Mental Health
- Sexually Assault Services Victoria (SASVic)
- Orange Door
- Multidisciplinary Centres (MDC)
- Respect Victoria
- VACCA
- Ethnic Council
- Child Protection
- Department of Justice
- Survivors organisations
- VIFM
- Victorian Association for Restorative Justice (VARJ)
- No to Violence
- Federation of Community Legal Services
- 1800 Respect
- CEASE – Peak body for Sexually Abusive Treatment Services.
- Forensicare
- ANROWS
- Australian Institute of Health and Welfare (AIHW)
- Australian Institute of Family Studies (AIFS)
- Vic Health
- Our Watch.

Commissioner Nixon created three similar Committees when she first came into her position. They had an extensive membership and brought about considerable change through networking and the work of several sub-committees.

Improving the Response of the Justice System to Sexual Offences

Submission: Carolyn Worth AM & Mary Lancaster, December 2020

The place of Restorative Justice within the commission

We believe the Restorative Justice service should report directly to the new Commissioner for the following reasons:

- The service should run as a state-wide program, based at the Commission
- The service needs to be seen as sitting with a neutral body. CASAs, and probably a number of other victim services, are seen as biased
 - It is known that on one occasion SECASA was refused permission to run a RJ session in a prison on the grounds that the agency was seen as biased. The concern was not that the facilitator was biased, but that CASAs generally were perceived as supporting victim/survivors and could not, therefore, provide a neutral facilitator.

Answers to Questions

Issues Paper A -Working Together to Respond to Sexual Offences: Systems

No.	Question	Answer
1	What would make it easier for people who have been sexually harmed to get the supports and services they need, so they can decide whether to report the sexual harm?	A well-publicised central contact point. Victoria has the Sexual Assault Crisis Line (SACL) that provides an after-hours contact point for people who have experienced sexual violence. 1800 RESPECT provides this service nationally. We propose that SACL should become a staffed 24 hour crisis response, because as a Victorian based entity, it has a better understanding of all Victorian services. SACL would require additional funding to provide the 24 hour response. An alternative could be to strengthen 1800 RESPECT's State and Territory components.
2	How can collaboration within the sexual assault system be improved, so that the justice system responds effectively to sexual harm?	Creation of a Commission for the Reduction of Sexual Harm as discussed in this submission.
3	How can the relationship between family violence services and the sexual assault system be improved, so that the justice system responds effectively to sexual harm?	The difficulty with family violence services is that they cover violence within the family, or violence perpetrated by people known to victims. Sexual assault services deal with intra-familial abuse of children, stranger assaults and the use of sexual assault as a hate crime. FSV's focus is primarily family violence. A co-ordinating body whose primary focus is sexual assault would be able to forge a more collaborative relationship with FSV, with a flow on effect to service providers in both sectors.
4	How can the relationship between Child Protection and the sexual assault system be improved, so that the justice system responds effectively	There needs to be strong links at the local/regional level between the sexual assault system and Child Protection (CP). Oversight is also needed at the Departmental/Peak Body

Improving the Response of the Justice System to Sexual Offences

Submission: Carolyn Worth AM & Mary Lancaster, December 2020

	to sexual harm?	level. Regionally there should be regular case discussions and consultation between CP and local sexual assault service providers. Some regions already have strong links, while others have a more combative relationship. The structure of CP needs to be revised so that emphasis is placed on having a skilled workforce on the front line and providing more appropriate supervision. Sexual assault agencies tend to have more experienced workers in the front line and have stronger processes around supervision.
5	How can we improve how other services and systems work with the sexual assault system, so that people are supported to seek justice?	Collaboration at the local and Government level. Regular meetings with agreed outcomes.
6	Is there a need for a stronger focus on governance or shared outcomes in the response of the justice system to sexual harm? If so, what should this look like	Yes. Education for both the justice system and sexual assault sector about offending, consequences of offending for victims, limits of judicial independence and how the justice system works.
7	What are the opportunities for, and benefits of, improving data, research and evaluation in relation to sexual offending?	A large amount of knowledge in the sexual assault field is practice wisdom. Increasingly Governments rely on evidence based research. It is important to have a more rigorous evaluation of clinical programs for sexual assault and sexually abusive treatment services to provide an evidence base for government funding discussions. There are a number of agencies such as Our Watch, ANROWS, AIFS operating in the research and evaluation field. AIFS had a specific sexual assault unit, Australian Centre for the Study of Sexual Assault (ACSSA) which was disbanded. Re-establishing this would be a good start.
8	How well does the sexual assault system work? How would you improve it?	Described in the rationale for an improved response on page 1 of this document.

Issues Paper B – Key Issues in Criminal Justice System

No.	Question	Answer
1	Is there a need to improve attitudes towards victim survivors or the understanding of sexual harm within the criminal justice system? If so, how?	Yes. A consistent public campaign about sexual assault, the meaning of consent and how the criminal justice system works in relation to sexual assault.
2	Do you support introducing a specialist court for sexual offences? Why or why not?	Yes. Victoria has a history of successful specialist courts.
3	If you support introducing a specialist court for sexual offences, what features should it have?	Judges/Magistrates/Barristers with appropriate specialist training. Enhanced capacity for video-taped

Improving the Response of the Justice System to Sexual Offences

Submission: Carolyn Worth AM & Mary Lancaster, December 2020

		evidence. Court supports.
4	Do you support changing the role or nature of the jury in trials for sexual offences? Why or why not?	Not able to comment.
5	How well are reforms working to avoid delays in the criminal justice process, and what other reforms could address delay?	Not able to comment
6	How well are support programs for people who have experienced sexual harm working? How can they be improved?	Not able to comment.
7	What other issues affect the criminal justice process as a whole, and what should be done to address them?	Insufficient resources and delays in coming to court.

Issues Paper C – Defining Sexual Offences

No.	Question	Answer
1	Is there a need to change any of Victoria’s sexual offences, or their application? If so, what changes?	Not able to comment.
2	How well is Victoria’s model of communicative consent working? Should there be any changes?	It is an excellent concept. However, there needs to be a public education campaign about communicative consent. It is not understood.
3	Is there a need to change any of Victoria’s technology-facilitated sexual offences, or their application? If so, what changes?	<p>Yes. Change section 247G of the Crimes Act to prevent a perpetrator using a victim’s password to view all her devices and account information, which are available because of cloud based services. Many victims are scared that the perpetrator, known or unknown, has access to their address and personal details.</p> <p>Legislation is being developed to prevent someone using a chat room to teach others how to make a bomb or commit terrorist acts. This legislation should be extended to include someone using the internet to incite others to commit stalking or another technologically facilitated offence. (E.g. current chat rooms and bulletin boards give details on how to disable other people’s devices, install spyware on another’s device or install surveillance devices).</p> <p>Update wording in the Summary Offences Act section 41DA and 41DB (distribution of an intimate image and threat to distribute), to include the use of Deep Fakes (person A’s face is transposed onto person B’s body). The update could mirror the definition of an intimate image in the Civil Penalties Scheme – Enhancing Online Safety Act section 9B.</p>

Improving the Response of the Justice System to Sexual Offences

Submission: Carolyn Worth AM & Mary Lancaster, December 2020

		<p>Some social media platforms/channels allow users to incite violence against women. Legislative capacity is needed to prevent this.</p> <p>Overall, legislation is fragmented across State and Federal Acts. There needs to be over-riding legislation that covers all States and Territories.</p> <p>It can be hard to obtain proof of online stalking. A dedicated task force is needed that deals with online violence.</p>
4	Are new offences or changes to offences needed to address existing or emerging forms of sexual harm? If so, what new offences or changes?	Not able to comment.

Issues Paper D – Sexual Offences – Report to Charge

No.	Question	Answer
1	How well are Sexual Offence and Child Abuse Investigation Teams (SOCITs) and Multidisciplinary Centres (MDCs) working? How can they be improved?	There are 7 MDCs which are partnerships between a variety of agencies. This encourages collaboration, information sharing and a victim focussed response. Other MDCs need to be rolled out across Victoria as was originally intended. Agreement is also needed about what constitutes core services.
2	What other issues need to be addressed to improve the experience of the police investigation process for adults who have been sexually harmed? How can they be addressed?	The person who has made the report should be provided with an assigned officer and a prompt response. There should be a warm handover if the initial Police Member is unavailable for a period of time. SOCIT requires more resources for personnel and preferencing of sexual assault cases within a region when there are competing demands, so that SOCIT resources can always respond.
3	What other issues need to be addressed to improve the experience of the police investigation process for children who have been sexually harmed? How can they be addressed?	Children should only have to give their statement once. A Centre in Santa Monica USA has a model in which Police, child support, interviewer and legal counsel are all present, using one way screens whilst the child is interviewed by an expert in interviewing young people. The video tape is then presented at court.
4	What other issues need to be addressed during the investigation process to support successful criminal prosecutions in sexual offence cases? How can they be addressed?	Not able to comment.
5	Do you support access to alternative ways of	Anonymous on-line reporting. South

Improving the Response of the Justice System to Sexual Offences

Submission: Carolyn Worth AM & Mary Lancaster, December 2020

	<p>reporting sexual harm? Why or why not?</p>	<p>Eastern Centre Against Sexual Assault (SECASA) developed SARA (Sexual Assault Reporting Anonymously) for this purpose. It received a large number of reports during its existence. The current administration at SECASA has closed SARA. We suggest re-establishing SARA within the proposed Commission.</p>
<p>6</p>	<p>If you support alternative ways of reporting sexual harm, what features should they have?</p> <p>(We assume this question refers to a victim wanting to break their silence about an assault by telling someone who is not a police officer.)</p>	<p>Yes, we support providing alternative ways of reporting.</p> <p>MDCs encourage victims to break their silence and to have a positive experience of police members, even if a formal report is not made initially. MDCs should be rolled out in each region.</p> <p>Online reporting, such as the SARA App, has been successful. Queensland and New South Wales Police have anonymous reporting on-line. However, their sites require almost as much information as giving a statement. It is not an encouragement to break your silence when faced with these two entities.</p> <p>Required features for such an online reporting tool:</p> <ul style="list-style-type: none"> • Counsellors to contact those reporting who volunteer their contact details (50% of SARA responders gave details). • The tool should be user friendly • Information given by those reporting should be able to be de-identified and passed on to police, to assist in policing sexual assault hot spots, or to alert police to trends or new crimes committed by a known person of interest. • The tool should have no mandatory fields. All information entered should be given voluntarily. • The tool should be mobile friendly but web-based. Users should not have to download anything. • The tool should be administered by the new Commission. <p>Full specifications for such a tool are available.</p>

Improving the Response of the Justice System to Sexual Offences

Submission: Carolyn Worth AM & Mary Lancaster, December 2020

Issues Paper E – The Trial Process

No.	Question	Answer
1	How well are charging and prosecution decisions for sexual offence cases working? How can they be improved?	Both SOCITs and the DPP have requirements for keeping victims informed about processes after reporting sexual assault. This does not always happen and victims experience on-going lack of updates and information. As a result, victims sometimes withdraw their complaint. More resources are required in both organisations so that someone is assigned to each victim and another person is assigned to cover holidays etc.
2	How well are ground rules hearings for sexual offence cases working? How can they be improved?	Not able to comment
3	How well are special procedures and alternative arrangements for giving evidence in sexual offence cases working? How can they be improved?	Ensure there are witness evidence facilities in each MDC to enable victims to give evidence without travelling long distances. Practical issues such as cost of petrol, parking and finding childcare make it difficult for people to attend court. Vouchers could be provided to cover expenses if a court requires attendance.
4	How well are jury directions for sexual offence trials working? How can they be improved?	Jury directions can be complex in sexual assault, especially about the passing of time before reporting or since the offence occurred. Directions should be made simpler, without prejudicing the accused. Relevant concepts could be explained to juries via a video that they watch after empanelling and before the trial commences. Simple explanations in written format could also be supplied in relevant languages.
5	Is there a need to change any laws on evidence or procedure for sexual offences? If so, what should be changed?	Not able to comment
6	What are some of the challenges with the appeals process for sexual offence cases? How can these be addressed?	Not able to comment
7	How well does the Children’s Court of Victoria deal with sexual offence cases? What should be improved?	Not able to comment
8	What are other issues with the trial process for sexual offences, and how should they be addressed?	Not able to comment

Improving the Response of the Justice System to Sexual Offences

Submission: Carolyn Worth AM & Mary Lancaster, December 2020

Issues Paper F – People Who Have Committed Sexual Offences

No.	Question	Answer
1	Do responses to sexual offending sufficiently address the diverse needs of different people who have committed sexual offences? If not, what more is needed?	No they do not. Existing SABTS programs need to be extended to reduce wait times in supporting young people with sexually harmful behaviours. Mensline or Forensicare should be extended to provide support for adult offenders, or people who are worried they might offend.
2	How well are rehabilitation or reintegration measures for people who have committed sexual offences working? How can they be improved?	Measures are not working well. A wrap-around service is needed to assist rehabilitation and reintegration by providing employment housing and on-going support, including therapeutic intervention. It is not possible to test relapse prevention whilst someone is in jail.
3	How well are post-sentence detention and supervision, and sex offender registration working? How can they be improved?	As above
4	Is there a role for early intervention or diversion programs for adults responsible for sexual harm? Why or why not?	Yes – see answers to earlier questions
5	If you support early intervention or diversion programs for adults responsible for sexual harm, what should be the features of the program?	Yes – see earlier answers
6	What is working well in responding to harmful sexual behaviour in children? What improvements can be made?	SABTs system has been proved effective in responding to harmful sexual behaviour in children and young people. However there are only 13 of these services in Victoria, which have long waiting times. These programs need to be better funded. Rural and regional Victorians should have the same access to service as metropolitan areas.
7	What other issues need to be addressed to improve Victoria’s approach to sexual offending?	No further comment.

Improving the Response of the Justice System to Sexual Offences

Submission: Carolyn Worth AM & Mary Lancaster, December 2020

Issues Paper G – Restorative and Alternative Justice Models

No.	Question	Answer
1	Do you support adopting a restorative justice model for sexual offences? Why or why not?	Yes, we support this. A large number of sexual assaults go unreported. Many victims do not wish to engage with the criminal justice system for a complex variety of reasons. Other victims whose perpetrators have been sentenced, still have questions they wish to ask. A restorative justice model allows many victims to move on by talking to alleged offenders, offenders, family members and institutions etc.
2	If a restorative justice model is adopted, what should its features be?	<ul style="list-style-type: none"> • Victim driven. • Separate to the justice system to ensure there is no unintended pressure on victims to participate. • Needs protection for disclosures, so it cannot be used to collect evidence such as in Victoria Police pretext calls. • The sessions need to be privileged and the details should not be able to be used for future court cases. • No intention to proceed with criminal charges at the time of the session. A person may change their mind later but if the session is privileged it would not be admissible in Court.
3	Is there a role for an inquisitorial model or features for sexual offences? If so, what should this look like?	Not able to comment at this time
4	Is there a role for new initiatives to enable people who have experienced sexual harm to tell their stories and have them acknowledged? Why or why not?	Yes – restorative justice model. See details in earlier answers. Restorative justice which includes responses from relevant organisations.
5	Are there Aboriginal justice models that you think should be considered for sexual offences? If so, what are their strengths and weaknesses?	Not able to comment
6	Do you support another alternative justice model for sexual offences? How should it work?	Not able to comment

Improving the Response of the Justice System to Sexual Offences

Submission: Carolyn Worth AM & Mary Lancaster, December 2020

Issues Paper H – Civil Law and Other Non-Criminal Responses

No.	Question	Answer
1	What aspects of other justice processes provide best practice examples for supporting people who have experienced sexual harm?	Restorative Justice model and SARA anonymous reporting app with counselling attached.
2	How can the interaction between other justice processes and the criminal justice system be improved?	By setting up the Victorian Commission for the Reduction of Sexual Harm and its State-Wide Committee, and strengthening links inter-departmental links.

Things that need to be in place to support the revised system structure

Uniform legislation nationally around:

- Age of consent
- Penalties
- Offence descriptions
- Safety vs privacy.

End of document