

Victorian Multicultural Commission

Submission to the Victorian Law Reform Commission's inquiry into Improving the Response of the Justice System to Sexual Offences.

The Victorian Multicultural Commission (VMC) welcomes the opportunity to make a submission to the Victorian Law Reform Commission (VLRC).

The VMC acknowledges the VLRC's commitment to improving support for people from culturally and linguistically diverse communities who experience sexual harm in accessing pathways to justice.¹

The issues around access to justice for people from multicultural communities who have experienced sexual offences and its impacts on them, their families and wider community has been documented well across the sector. The VMC notes the definition of sexual offences in Victoria as outlined in *Issues Paper C 'Defining Sexual Offences'*² as:

1. Rape, sexual assault and associated sexual offences
2. Sexual offences against children
3. Child exploitation material
4. Sexual offences against people with a cognitive impairment or mental illness; and
5. Other sexual offences including incest, sexual servitude, sexual exposure in public places and image-based abuse offences.


The VMC also notes that the above offences may occur in broader experiences of violence and abuse that have been identified in Issues Paper C including:

1. Family violence
2. Sexual exploitation
3. Forced marriage
4. Female genital cutting; and
5. Stalking

This submission draws on relevant VMC submissions and community feedback collated through various community engagement platforms, including consultations with people from multicultural and multifaith backgrounds and through VMC's Regional Advisory Councils (RACs). The VMC has also surveyed RAC members to inform its response on how to explore targeted opportunities that improve pathways to justice for those experiencing sexual harm.

This submission represents the voices, experiences and concerns of Victoria's multicultural and multifaith communities by addressing the inquiry's focus areas, including:

1. barriers to reporting sexual harm
2. why reports of sexual harm may not proceed through the justice system
3. how to reduce the trauma of victim survivors in the justice system
4. how to improve data collection and reporting
5. the best ways of responding to sexual offences, including alternatives to the justice system



In its advocacy efforts, the VMC is uniquely positioned to advocate on the needs of Victoria's multicultural and multifaith communities and provides ongoing feedback across government to ensure that issues affecting them are addressed appropriately and in a timely manner. The VMC is invested in ensuring that multicultural communities have equal opportunity to accessing and navigating the justice system and works across the Victorian Government to provide evidence-based advice on relevant policies and programs. Informed by community consultations and commissioned research, the VMC is cognisant of the unique and complex systemic challenges and barriers facing multicultural communities, many of which have been exacerbated by the COVID-19 pandemic.

The VMC supports the Victorian Government's *Everybody Matters: Inclusion and Equity Statement* - a key response to the Royal Commission into Family Violence recommendations and framework 'for building a more inclusive system through an investment in systematic change and through building our capabilities, knowledge and specialisation to achieve a system that is responsive to all'.³

Building on an intersectional and inclusive framework will improve access to justice for multicultural communities and is especially pertinent given Victoria's cultural, religious and linguistic diversity, where:

- 48% of Victoria's youth population were born overseas or have at least one parent born overseas, a 4% increase over the last decade; and
- More than one in four young people in Victoria (27 per cent) spoke a Language Other Than English (LOTE) at home.

(Source: Centre for Multicultural Youth, *A Young and Multicultural Victoria: the 2016 Census, 2020*)


This data demonstrates that multicultural communities *are* mainstream. Similarly, to other submissions made across government, the VMC strongly advocates for a whole-of-government approach to multicultural affairs by prioritising cultural responsiveness and inclusiveness of its services to be embedded in appropriate supports and infrastructure. This will ensure meaningful and sustainable outcomes for our multicultural communities across all facets of life.

Former inquiries into sexual offences

In 2004, the VLRC undertook an inquiry into reporting on sexual offences and its findings and recommendations were later tabled in Parliament. The Commission handed down two recommendations to be actioned by the Victorian Multicultural Commission in conjunction with Victorian Government departments at the time to specifically address the needs of multicultural communities and to increase community education. The two recommendations are:

Chapter 1: Recommendation 2

The Department of Justice and the Victorian Multicultural Commission should convene a steering committee including representatives from the Department of Human Services, Victoria Police, the Centre Against Sexual Assault (CASA) and relevant NESB community organisations to plan and implement a



series of community education campaigns focusing on strategies to reduce sexual assault in NESB communities.

Chapter 1: Recommendation 7

The Department of Justice Diversity Unit and the Victorian Multicultural Commission should continue to collaborate to develop a program for uniform data collection by the various government and non-government agencies and services that work with victim/survivors and perpetrators of sexual assault. The program should include the development of appropriate standards, systems and the provision of training to personnel to ensure that accurate data regarding the Indigenousness and Aboriginality, ethnicity and other relevant characteristics of service users is recorded and forwarded to a centralised agency for collation.

The VMC has worked with relevant departments and agencies, including Department of Health and Human Services, Department of Justice, Victoria Police, Family Safety Victoria, NGOs and communities in relation to the above recommendations in addressing sexual assault within Victoria's multicultural and faith communities. This work is ongoing. The VMC Chairperson co-chairs the Multicultural Family Violence Working Group alongside the CEO of Family Safety Victoria, which looks at a range of issues affecting the multicultural communities in this area.

In its advocacy efforts, the VMC has also responded to previous inquiries related to sexual offences and access to justice on behalf of multicultural communities in Victoria. This submission reiterates the key positions and recommendations put forward in the following submissions with supplementary focus on recent VMC key findings:

- Submission to the Royal Commission into Family Violence (2015)
- Submission to the Access to Justice Review (2016)
- Letter to the Chair of Royal Commission into Institutional Responses to Child Sexual Abuse, (2016); and
- The Victorian Multicultural Commission submission to the Family Violence Reform Implementation Monitor on Monitoring the Family Violence Reforms – Supplementary Submission, 2020

VMC's response to focus areas

Whilst numerous reports have well documented the six focus areas identified by the VLRC, multicultural communities in Victoria are still underrepresented in current policies and people experiencing sexual harm from culturally and linguistically diverse backgrounds continue to experience barriers in accessing and navigating pathways to justice.

The VMC is keen to ensure that Victoria's diverse population and its legal needs are fully considered in the review on the basis of access to justice principles, such as equity, fairness and efficiency.⁴

This next section responds to five focus areas and is supported by VMC's evidence base of collated data and community feedback.



Barriers to reporting sexual harm

The barriers to reporting sexual harm experienced by multicultural communities have been well documented across the sector and have been identified in previous VMC submissions⁵. However, the VMC asked its RAC Members to identify supplementary and emerging barriers to reporting sexual harm.

Key findings include:

- Low- English language proficiency
- Lack of access to interpreter assistance and in-language resources - set up helpline in multi-languages
- Unfamiliarity of available legal assistance and processes
- Unfamiliarity around definition of what constitutes sexual assault, reference to marital rape and coercion
- Lack of access to digital technology or digital illiteracy (emerging and prominent trend of COVID-19)
- Geographical location and social isolation (hard to access and engage with local legal services during COVID-19 restrictions; particularly the case for regional communities)
- Cultural sensitivities or differences
- Feeling shamed by family members and wider community and that they carry the heavy burden of bringing shame to their family and community
- Concerns around privacy and confidentiality
- Not wanting offender (who can be a family member, friend or known to community) to be prosecuted for their offence
- Mistrust of police and authority figures
- There is a need to upskill and capacity build community leaders, as trusted community members, to ensure that they can provide appropriate support where possible in disclosing sexual offences and referral pathways to accessing pathways of justice.

Why reports of sexual harm may not proceed through the justice system

The VMC asked RAC Members why reports of sexual harm may not proceed through the justice system.

Key findings include:

- Language barriers
- Limited access to the resources or legal assistance
- Perception that the police *'does not really care and community does not believe police is willing to do anything or help'*.
- Need to address systemic racism and lack of cultural safety in the justice system
- Need for qualified and culturally sensitive interpreter language support throughout the end to end process – this is particularly the case for women accessing legal aid where interpreters are usually utilised at the courts, meaning that many women are not able to establish trust and connection with an interpreter when they initially engage or disclose sexual offences at their touch point.
- Lack of workforce diversity and the ability to provide cultural safety and culturally responsive services; need to strategically prioritise employing bi-cultural workforces to better respond to the needs of diverse communities and ensure inclusive approaches to service delivery.
- Need to ensure that the workforce is equipped with adequate training on trauma and various forms of abuse – particularly to support newly arrived women and their children, refugees and asylum seekers who need specific and relatable support. Connecting women and their children with appropriate culturally sensitive therapists is important to be able to achieve justice through the system.



How to reduce the trauma of victim survivors in the justice system

The VMC asked RAC Members for suggestions on how to reduce trauma experienced of victim survivors in the justice system. Key findings include:

- Ensure that victim survivor confidentiality is maintained. That if an interpreter is used that they feel comfortable with who the interpreter is (always a fear that information about their circumstances will go back to the community).
- That they are provided with in-language supports, resources and information available in various formats.
- Prepare bilingual or translated videos in different language on many scenarios and show how to access support/help, also evidence or statistics to support self-confidence.
- Need for bi-cultural workforce within the justice system who are well trained in trauma-informed practices to provide adequate and culturally safe support to people from multicultural communities that are experiencing sexual harm. This is currently lacking.
- Addressing systemic racism and lack of cultural safety in these institutions.

How to improve data collection and reporting

RAC Members indicated that they are familiar with the following aggregated data within the justice system:

- Country of birth
- Language other than English spoken at home
- Faith/religion
- Interpreter services required

The VMC suggests the need for better data collation and research on cultural diversity – including utilisation rates and outcomes – to accurately understand the needs of multicultural communities and appropriately respond to their needs through target resources (community education and awareness, employing and promoting bi-cultural workforces, offer joined up specialist multicultural/mainstream legal services). This includes strengthening reporting tools by reviewing, updating and implementing relevant data collection guidelines across the justice system.

The best ways of responding to sexual offences, including alternatives to the justice system

The VMC asked RAC members what they believe are the best ways, including alternatives to the justice system, for people from culturally and linguistically diverse communities to respond to sexual offences. Key responses include:

- Restorative justice mechanisms.
- Develop community awareness using community leaders, involve more female community leaders, support with knowledge first.
- A human rights guided approach that places respect for the victim survivor at the core



About the Victorian Multicultural Commission

The Commission is an independent statutory body that strengthens cultural diversity in Victoria through consultation, advocacy, celebration and promotion. It is one of the main conduits between Victoria's multicultural communities and government.

Apart from hosting community-specific, issue-specific and place-based consultations, the Commission is informed by its:

- eight Regional Advisory Councils across Victoria (three metropolitan and five regional councils) with more than 250 members drawn from their respective local areas to represent their communities,
- the Multifaith Advisory Group, with representatives from more than 25 faith organisations and peak bodies, and
- the Multicultural Chamber of Commerce Group, with more than 30 community specific chambers of commerce and business sector representatives.

Since March 2020, the VMC has engaged extensively with Victoria's multicultural and faith communities, hosting in excess of thirty community roundtables, over twenty Regional Advisory Council meetings, co-chaired the North Melbourne Flemington and Yarra Public Housing Estates Working Groups, attended numerous community led consultations, co-hosted with the VEOHRC ten anti-racism seminars as well as an immense range of consultations with individual community organisations and leaders, service providers and subject matter experts. Through all of the issues identified, those pertaining to family violence and accessing pathways to justice during COVID-19 restrictions were raised as priority areas of concern.



Victoria's Diversity

Migration to Victoria has resulted in increasing diversity over time; creating one of the most culturally diverse societies in the world with a population of more than 6.5 million as at 31 March 2019.

Victoria's multicultural and linguistic diversity is a mainstream issue as highlighted by the following:

- Victoria's population has grown from 4.9m in 2006 to 5.9m in 2016; a 20% increase in ten years; with the overseas born proportion having increased from 23.8% to 28.4%;
- the proportion of overseas born and Australia-born with at least one parent having been born overseas increasing from 43.5% to 49%.
- With respect to LOTE (Language Other Than English) speakers at home, the proportion has increased from 20.4% in 2006 to 26.0% in 2016.
- Greater Melbourne's population has grown from 3.6m in 2006 to 4.5m in 2016; a 24.8% increase in ten years.
- with the overseas born proportion having increased from 28.9% to 33.9%; and, the proportion of overseas born and Australia-born with at least one parent having been born overseas increasing from 51.2% to 57.1%.
- With respect to LOTE speakers at home, the proportion has increased from 26.3% in 2006 to 32.6% in 2016.

While the COVID-19 pandemic has impacted on **immigration** due to travel restrictions to Victoria and Australia, it is likely that the previous trends will return once the pandemic has been brought under control.

As immigration will continue to drive population growth, it is essential that Victoria's increasing cultural and linguistic diversity be at the forefront of policymaking, policy implementation (including funding), service design and delivery, and performance monitoring and evaluation.



Factors underpinning our recommendations

- Victoria is regarded as one of the most diverse, socially cohesive and successful multicultural societies in the world. It is also acknowledged as one of the leaders in multicultural affairs and for how it supports a culturally, linguistically and religiously diverse society. Our diversity is increasing.
- Regarding attitudes to multiculturalism, The Scanlon Foundation's Mapping Social Cohesion Survey 2019 found that 85% of respondents agree that multiculturalism has been good for Australia, which confirms its previous findings since the survey commenced in 2007. Further the 2019 Survey found that 64% of respondents believe that migrants make Australia stronger.
- Victoria's multicultural community infrastructure comprises of more than 4,000 ethno-specific, faith-specific and multicultural community organisations, which provide a myriad of benefits particularly in the context of facilitating successful settlement but are often inadequately utilised or under-resourced.
- To maintain the benefits, and ideally enhance them, we must fully acknowledge and embrace our diversity, requiring intellectual and financial investment. As a nation, we haven't yet fully embraced the opportunities that our multicultural diversity provides nor fully acknowledged or addressed its challenges.
- To ensure genuine access and equity, a positive reframe of the design and delivery of our policies and services is required; one that moves beyond acknowledgment to embracement of our diversity as a reality and strength; and one that ensures protections against exclusion, discrimination, vilification, racism and hate.
- Reframing the multicultural community infrastructure as a complementary component to service delivery in a society that is increasingly diverse is critically important, not only in facilitating inclusion, access and equity but in the longer term will deliver reduced costs and improve productive participation, a sense of inclusion and belonging and enhance social cohesion. The current mainstream versus ethno-specific/multicultural discourse is misplaced. They are complementary.
- Genuine consultation and co-design in programs and services needs to be built into our systems thinking, design and implementation. The voice our communities need is to be part of the solution. This includes the need to work with community leaders as trusted members of community to provide support and provide information on pathways to justice for those experiencing sexual harm and violence.




High-level systemic recommendations

There is significant room for improvement requiring meaningful, systemic and sustainable change in improving access and navigating pathways to the justice system for people from culturally and linguistically diverse backgrounds who have experienced sexual harm. Some of these reforms and changes include:

1. **Better data collation and research** on cultural diversity – including utilisation rates and outcomes – to accurately understand the needs and appropriately target resources as well as **strengthen reporting tools by** reviewing, update and implement relevant guidelines.
2. **Workforce diversity** must be improved. It stands to reason that service providers that are reflective of the community they serve is one that understands it better and therefore is able to design policies, programs and services that are more responsive of the needs. This includes:
 - 2.1 **The employment of bicultural workers**
 - 2.2 **Develop a multicultural workforce strategy**
 - 2.3 **Targets on priority cohorts**
 - 2.4 **Develop inclusive training strategies** – to adequately equip workers with the skill and understanding on how to best support people from diverse communities experiencing sexual harm in seeking pathways to justice.

This process will need to closely engage with professional colleges and associations, universities and other education and training providers with relevant expertise.

3. **Strengthen departmental funding agreements** to ensure that funded agencies monitor and report on the diversity of their clients and compare with the demographics of the area they service.
4. **Improve cultural competency and cultural safety** of legal service delivery agencies. Apart from accredited cultural competency and diversity training, this could be strengthened through:
 - 4.1 **Ensuring that boards and committees of legal services** are more reflective of the community they serve. This could be encouraged through procurement requirements and funding agreements; and
 - 4.2 **Requiring legal agencies and service providers to establish community advisory committees** to provide advice and guidance on improving place-based access and responsiveness.
 - 4.3 Where applicable, **ensure the indicators and measures are linked** to the Victorian Government's whole of government requirements under the Multicultural Affairs Legislation.
5. **Tailored and targeted communication and community engagement.** There is a need for greater focus on targeted or tailored approach to communication and engagement with multicultural communities to increase awareness and understanding of the various forms of sexual harm and pathways to justice, disclosure and accessing support.

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6. **Funding and incorporating multicultural/multifaith sector service delivery as part of the “mainstream”.** These organisations and services providers are critical and need to be part of the “mainstream”, not competition.
 7. **Genuine whole of government and agency approach to address CALD men perpetrator overrepresentation in justice system,** including tailored preventative support and wrap around post release assistance.
 8. **Better utilisation and/or enhancement of multicultural legal advisory bodies and/or committees** at both local government and state government level to facilitate co-design of community education on accessing the justice system and ensure meaningful engagement with community.

¹ https://www.lawreform.vic.gov.au/sites/default/files/2657-VLRC_Sexual%20Offences%20Issue%20Papers-A-web.pdf

² Victorian Law Reform Commission, *Improving the Response of the Justice System to Sexual Offences: Issues Paper C: Defining Sexual Offences*, 2019

³ <https://www.vic.gov.au/everybody-matters-inclusion-and-equity-statement>

⁴ VMC Access to Justice Review, 2015 – access: <https://www.multiculturalcommission.vic.gov.au/submissions-to-government>

⁵ Barriers identified in VMC Access to Justice Review, 2015, Letter to Chair of Royal Commission into Institutional Responses to Child Sexual Abuse, 2016 and VMC Supplementary Submission into Monitoring the Family Violence Reforms, 2020 – access: <https://www.multiculturalcommission.vic.gov.au/submissions-to-government>