

PARLIAMENT OF VICTORIA LAW REFORM COMMITTEE INQUIRY INTO ALTERNATIVE DISPUTE RESOLUTION AND RESTORATIVE JUSTICE

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| <p>1. Promoting an evidence-based approach to ADR</p> | <p>Accept</p> | <p>The Government is also considering this response in the context of the Government’s response to the <i>Civil Justice Review</i> report.</p> <p>A data and reporting framework is in the process of being developed.</p> <p>The ADR Directorate has developed strong links with the Courts, service providers (through peak bodies such as LEADR and IAMA) and institutions such as Monash University’s Non-Adversarial Justice program. It is through these links that the Directorate will identify further priorities for research and the sponsorship of research.</p> <p>The Government, through the ADR Directorate, is represented on the National Alternative Dispute Resolution Advisory Council’s National Mediation Accreditation Committee. This Committee has developed national standards for the accreditation of mediators and is now responsible for overseeing the National Mediator Accreditation System and for the establishment of a proposed National Mediation Standards Board.</p> <p>In 2009 the Government was the major sponsor of the LEADR Congress in Melbourne – a major international conference for ADR service providers. This conference was launched by the Attorney-General.</p> <p>The Government is a sponsor of Monash University’s Non-Adversarial Justice conference to be held in Melbourne in May 2010. This conference will be launched by the Attorney-General.</p> |
| <p>2. ADR framework</p> | <p>Accept</p> | <p>The Government is responding to this recommendation through the following:</p> <ul style="list-style-type: none"> • Data and reporting framework (2009). • Communication strategy (implemented over the next 3 years). |

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| | | <ul style="list-style-type: none"> Proposal for an ADR Advisory Council which is scheduled to commence meeting in early 2010. |
| 3. ADR Committee | Accept | <p>The Attorney-General has endorsed the establishment of an ADR Advisory Council comprised of key stakeholders involved in ADR in Victoria.</p> <p>The ADR Advisory Council is due to commence meeting in early 2010.</p> |
| 4. Data collection on access to ADR (analysis of unmet need for ADR) | Accept in Principle | <p>This will be considered as an enhancement to the data and reporting framework.</p> <p>This will be considered for inclusion in the ADR Directorate's business plan in 2009/10 or 2010/11.</p> |
| 5. Research on referrals by ADR service providers | Accept | This work forms part of the ADR Directorate's communications and online strategies. |
| 6. ADR referral protocols | Accept | The ADR Directorate is developing referral protocols as part of its communication strategy. |
| 7. Equipping CAV staff to make appropriate referrals to ADR services | Accept | There are significant customer service advantages of CAV and ADR Directorate working closely together to ensure that respective dispute resolution services and responsibilities are clear to Victorians. Referral protocols between the agencies will be developed and staff training undertaken. |
| 8. Enhancement of the disputeinfo website. | Accept | <p>This is in progress and a new website to replace disputeinfo is due to be launched in early 2010.</p> <p>The website will provide:</p> |

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| | | <ul style="list-style-type: none"> • Comprehensive information on ADR; • Comprehensive information on how to resolve disputes; • Links to The Law Handbook online; • Links to ADR service providers through links to key organisations such as NADRAC (National Alternative Dispute Resolution Advisory Council), IAMA (Institute of Arbitrators and Mediators Australia) and LEADR – Association of Dispute Resolvers. <p>The replacement of disputeinfo will take place in 2 stages as follows:</p> <ol style="list-style-type: none"> 1. A new mediation website (early 2010). 2. A new ADR portal (2010/2011). |
| 9. Dissemination of information about the disputeinfo website. | Accept | <p>This is in progress and information will be provided as part of the ADR Directorate’s 3 year communication strategy.</p> <p>The Directorate is working closely with key stakeholders including Government Departments, Local Government, Community Legal Centres and Victoria Police to ensure that referral agencies have a clear understanding of what the website provides.</p> <p>The website will include a section for referral agencies that will be designed to assist them with the referral of disputes or potential disputes to the most appropriate organisation.</p> |
| 10. Publishing information about matters of public interest arising | Accept in Principle | The Government will consider this issue in more detail. |

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| in ADR. | | <p>The Government acknowledges the need for transparent complaints processes. To that extent the new website will have a clear complaints process in relation to mediations conducted by the Dispute Settlement Centre of Victoria (DSCV).</p> <p>Further, the Government will give consideration to publishing DSCV case studies that may be of public interest.</p> |
| 11. Training on power imbalances in ADR. | Accept in Principle | <p>This is being considered as part of the ADR Directorate's accreditation project.</p> <p>The DSCV employs Dispute Assessment Officers who organise and prepare cases for mediation.</p> <p>All DSCV Dispute Assessment Officers are trained in risk assessment and the ability to address power imbalances between parties.</p> |
| 12. ADR and access to legal advice. | Accept in Principle | <p>This recommendation requires further consideration by Government.</p> <p>To some extent, this recommendation will be addressed through the ADR Directorate's communication strategy over the next 3 years.</p> <p>The new website will be specifically designed to make it easier for professionals to refer cases for advice.</p> <p>The ADR Directorate has commenced a partnership with the Federation of Community Legal Centres and the Fitzroy Legal Service to ensure that the new website and the Law Handbook Online are appropriately linked so that consumers can easily navigate advice about their rights and advice about mediation at the same time.</p> |
| 13. Dispute settlement centres | Accept | This is in progress and will be fully implemented by July 2010. |

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| throughout Victoria. | | By July 2010 the DSCV will have a presence in all 8 Government regions throughout Victoria. In all of the 5 rural regions, there will be teams of 3 staff per region and a panel of mediators who will be able to respond quickly to requests for mediation of community disputes such as neighbourhood disputes and non-family violence intervention order matters. |
| 14. Overcoming language barriers in ADR service provision. | Accept in Principle | <p>The Government is also considering this response in the context of the Government's response to the <i>Civil Justice Review</i> report.</p> <p>To some extent, this recommendation will be addressed through the ADR Directorate's communication strategy over the next 3 years.</p> <p>The ADR Directorate is in the process of developing a suite of written materials in plain English as well as the 10 major community languages. This suite of documents will be available to the public in early 2010.</p> <p>The ADR Directorate is aware of the need to provide accessible information in a variety of forms and will incorporate video material on the new website in the major community languages.</p> <p>The Victorian Government must comply with equal opportunity requirements in providing services to the public.</p> |
| 15. Resources to assist ADR practitioners work with people with language difficulties. | Accept | The ADR Directorate is in the process of developing information in community languages in text and on the new website. See also Recommendation 14. |
| 16. Increasing public awareness | Accept | This is in progress through the communication strategy and also the regionalisation of |

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| of the Dispute Settlement Centre of Victoria. | | DSCV, which will be completed by July 2010. |
| 17. Increasing public awareness of ADR. | Accept | <p>This is being responded to via the ADR communication strategy.</p> <p>The recommendation is wide-reaching and requires further discussion with NADRAC, and peak bodies such as IAMA and LEADR.</p> <p>The ADR Directorate has developed strong links with NADRAC, IAMA and LEADR since its inception on 1 July 2008.</p> |
| 18. Increasing awareness of ADR in the CALD community. | Accept | <p>This is being developed as part of the ADR communication strategy over the next 3 years.</p> <p>In relation to Koori communities, the ADR Directorate has developed a partnership with the Koori Justice Unit of the Department of Justice (DOJ) and Aboriginal Affairs Victoria to provide better awareness of the services provided by the DSCV for Koori communities and organisations.</p> <p>This project (the Koori Mediation Project) is reviewing the training provided to ensure that mediators who will be mediating Koori disputes receive cultural awareness training. DSCV will also continue to work with Koori communities through the Regional Aboriginal Justice Advisory Committees to ensure increased recruitment of Koori mediators.</p> <p>The ADR Directorate will work with CAV's Multicultural Consumers Unit to ensure communications to communities incorporate each area's responsibilities in dispute resolution and access points.</p> |
| 19. Referral protocols between | Accept | The ADR Directorate has included referral protocols as part of its communication strategy |

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| ADR providers and other organisations. | | over the next 3 years. |
| 20. Educating referring organisations about ADR. | Accept | The ADR Directorate has developed links with local government and other key referring organisations to provide information about ADR over the next 3 years. |
| 21. Recruitment of ADR staff. | Accept | <p>The ADR Directorate will encourage other service providers to recruit staff with a wide range of backgrounds.</p> <p>The Directorate is in the process of improving Koori mediation services in consultation with the Aboriginal Justice Forum. See discussion at Recommendation 18.</p> <p>The DSCV continues to work closely with a wide range of cultural groups in the community and this will remain a focus of DSCV's work into the future.</p> |
| 22. Community involvement in ADR service development | Accept | <p>The DSCV is currently expanding throughout Victoria.</p> <p>As the DSCV expands, its links to the Victorian community are becoming increasingly strong. Teams that are recruited to regional offices are recruited specifically from local areas and have a Government or community service background.</p> <p>The DSCV is represented on Regional Aboriginal Justice Advisory Committees throughout Victoria as well as a number of other local community bodies.</p> <p>As discussed at recommendation 18 above, the ADR Directorate is consulting with the Koori community on the development of Koori specific mediation training. This project is also considering whether there is a need for a Koori specific model of mediation.</p> |
| 23. Staffing of regional dispute settlement centres. | Accept | This is in progress through the regionalisation of DSCV, which will be completed in 2010. |

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| | | Staff are trained in ADR and cultural awareness. DSCV is represented on each RAJAC in Victoria. |
| 24. Cross cultural training for ADR providers. | Accept in Principle | This recommendation is being considered in the context of the training provided by DSCV. DSCV is working closely with Government agencies such as the Office of Housing. Through a pilot in partnership with the Neighbourhood Justice Centre, DSCV is providing training and advice in conflict resolution to assist Housing Officers resolve disputes on housing estates in the City of Yarra. |
| 25. An ADR information network. | Accept in Principle | This proposal will be put to the ADR Advisory Council for consideration when it meets in early 2010. |
| 26. Victorian Government support for the National Mediator Accreditation Scheme. | Accept in Principle | VCAT and the ADR Directorate are in the process of accrediting their mediators. The ADR Directorate will explore with the State Services Authority the viability of accrediting all government providers. Such a system would require additional resources for administration. |
| 27. Training for ADR practitioners. | Accept | ADR training and ongoing professional development for staff and mediators currently occurs in various forms within government (such as at the DSCV and VCAT). The comprehensive and wide reaching training program suggested by this recommendation will be considered in consultation with the ADR Advisory Council. |
| 28. Regulation of other ADR practitioners. | Accept in Principle | The Government will consider proposing regulation of other ADR practitioners to the Standing Committee of Attorneys-General and will consult with NADRAC in the first instance. |
| 29. Review of statutory | Accept in | The Government will consider proposing a review of statutory provisions applying to ADR |

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| provisions applying to ADR services. | Principle | services to the Standing Committee of Attorneys-General. |
| 30. Complaints mechanism for ADR services | Accept in Principle | <p>The Government will consider this recommendation further, including policy issues and implications for implementation.</p> <p>The DSCV is reviewing its complaint mechanism, which will be made available on its new website. This will be available for other ADR service providers to use as a template.</p> |
| 31. Dispute resolution education in schools. | Accept in Principle | <p>The DSCV piloted a series of workshops for schools in the Barwon Southwestern region. Regionalisation of the DSCV will enable stronger links between the DSCV and schools so that workshops can be provided on a statewide basis.</p> <p>The DSCV will continue to work with the Department of Education on the provision of dispute resolution education in schools.</p> <p>The ADR Directorate will also work with CAV's Consumer Education in Schools Unit, which currently provides a range of educational support materials to teachers which support current curricula (including problem gambling, credit, sustainability issues, etc.).</p> |
| 32. Role of ADR providers in education to prevent and resolve disputes. | Accept in Principle | This recommendation will be considered in consultation with the ADR Advisory Council. |
| 33. Extending external dispute resolution schemes. | Accept in Principle | <p>The Government is also considering this response in the context of the Government's response to the <i>Civil Justice Review</i> report.</p> <p>Consideration of ADR for licensed industries through EDR or industry schemes should be re-evaluated after the review of the Victorian Civil and Administrative Tribunal (VCAT)</p> |

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| | | <p>functions being undertaken by the President of VCAT, Justice Bell.</p> <p>In addition, the COAG-endorsed work on national occupational licensing includes the possibility of a national EDR service akin to that in financial services. This is best considered at a national level. Any Victorian Government initiative would be premature while this national harmonisation work is underway.</p> |
| 34. Research on online dispute resolution. | Accept | This will be considered as part of the ADR Directorate's online strategy over the next 3 years. |
| 35. Provision of ODR via disputeinfo website. | Accept | This will be considered as part of the ADR Directorate's online strategy over the next 3 years. |
| 36. Encouraging ADR through the model litigant guidelines. | Accept in Principle | <p>The Government is also considering this response in the context of the Government's response to the <i>Civil Justice Review</i> report.</p> <p>This has been the subject of correspondence from the Victorian Small Business Commissioner and is under consideration in consultation with Government Legal Services.</p> <p>One of the options for consideration is the adoption of the model in the Commonwealth's Legal Services Directions 2005.</p> <p>The proposal to include ADR in the model litigant guidelines is being developed by DOJ and recommendations will be made to the Attorney-General in late 2009 or early 2010.</p> |
| 37. Reviewing compliance with the model litigant guidelines. | Accept in Principle | This proposal will be considered during the development phase of the guidelines. This is a very wide recommendation that would require further consideration of policy and implementation issues. |
| 38. Educating lawyers about | Accept in | This is being considered in the context of whether to make ADR education a pre-requisite |

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| ADR. | Principle | <p>to admission to practice as a lawyer.</p> <p>The Government has consulted with the Law Institute of Victoria and the Bar Council in relation to the adoption of an ADR Pledge. The Bar Council has signed up to an ADR Commitment that encourages Barristers to explore ADR options with clients when advising them.</p> <p>The Government is also considering this response in the context of the Government's response to the <i>Civil Justice Review</i> report.</p> |
| 39. Pre-action ADR in the Magistrates' Court | Accept | <p>This is in progress. The Government is also considering this response in the context of the Government's response to the <i>Civil Justice Review</i> report.</p> <p>The Government, in consultation with the Magistrates' Court, is expanding ADR in the Magistrates' Court. The Civil Mediation Process involves referral to mediation of all matters under \$10,000 (at Broadmeadows Magistrates Court the limit has been increased to \$40,000). The Civil Mediation Process is now available at all Magistrates' Courts in the Northwest Metropolitan Region (Broadmeadows, Sunshine and Werribee Courts) and the Gippsland Region.</p> <p>The Broadmeadows pilot was evaluated between November 2007 and May 2008 and was found to be successful with a settlement rate above 80%. Data collected since May 2008 has confirmed the initial assessment of success.</p> <p>It is planned that the Magistrates' Court Civil Mediation process be expanded throughout Victoria in the 2009/2010 financial year.</p> |
| 40. Referral to a wider range of ADR processes. | Accept in Principle | <p>The Government is also considering this response in the context of the Government's response to the <i>Civil Justice Review</i> report.</p> |

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| 41. Courts to maintain a list of ADR practitioners. | Accept in Principle | <p>The Government is also considering this response in the context of the Government's response to the <i>Civil Justice Review</i> report.</p> <p>VCAT maintains a list but further consideration of implementation issues for Courts is required.</p> |
| 42. Training for judicial officers providing ADR. | Accept | <p>The Government is also considering this response in the context of the Government's response to the <i>Civil Justice Review</i> report.</p> <p>This is being provided by the Judicial College of Victoria.</p> <p>A training program was conducted in 2008 by Professor Nadja Alexander of the University of Queensland.</p> <p>The following programs were developed and been conducted or are scheduled for 2009 and 2010:</p> <ol style="list-style-type: none"> 1. Two-day intensive workshop entitled 'Facilitative Judging: Mediation Skills for Judges', conducted by Professor Tania Sourdin, of the University of Queensland, held in April 2009. Twelve judicial officers from County Court, Magistrates' Court and VCAT participated. 2. Master classes for County and Supreme Court judges conducted by Justice Louise Otis of the Court of Appeal Quebec, Canada, in May 2009. 3. Seminar for Magistrates and VCAT members, conducted by Justice Louise Otis of the Court of Appeal Quebec, Canada, in May 2009. 4. The Judicial College of Victoria is organising a training session for County and |

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| | | <p>Supreme Court judges conducted by Judge Colin Doherty, New Zealand District Court, and Professor Tania Sourdin, in October 2009.</p> <p>5. Visit to Canada by a judge from the County Court, Supreme Court and Court of Appeal to attend a training session conducted by the National Judicial Institute of Canada and also to observe judicial mediations conducted by Justice Louise Otis.</p> <p>6. The Judicial College of Victoria in partnership with the ADR Directorate is organising for Justice Louise Otis to conduct training for judicial officers in April 2010.</p> |
| 43. Judicial guidelines on referral to ADR. | Accept in Principle | <p>The Government is also considering this response in the context of the Government's response to the <i>Civil Justice Review</i> report.</p> <p>This recommendation will be referred for further consideration by the courts and VCAT.</p> <p>The Government has provided additional resources to the County and Supreme Courts in the form of an ADR Coordinator for each jurisdiction. The role of the ADR coordinators is to assist the ADR Judges in each jurisdiction with the administration of ADR. One of the factors for consideration is which cases are inappropriate for referral to ADR.</p> <p>The ADR Directorate is also working closely with the Magistrates' Court in developing practice notes and guidelines in relation to the Civil Mediation Process as well as the development of processes for the referral of appropriate intervention order applications to mediation.</p> |
| 44. Training program for court referrers to ADR. | Accept in Principle | <p>The Government is also considering this response in the context of the Government's response to the <i>Civil Justice Review</i> report.</p> <p>ADR referrals training was a focus of the training program conducted by Professor Nadja</p> |

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| | | <p>Alexander of the University of Queensland, in 2008.</p> <p>Future training programs to be considered by the Judicial College of Victoria.</p> |
| <p>45. Research on the outcomes of restorative justice processes</p> | <p>Accept in Principle</p> | <p>As part of DOJ's exploration of the development of further restorative justice programs, the range of outcomes suggested in this recommendation will be considered when formulating the specifications for any research that might be commissioned to evaluate any future programs.</p> <p>DOJ's ongoing exploration of the development of further restorative justice programs will include establishment of a common or similar data collection and research process for all government-funded RJ services in Victoria.</p> <p>The DHS review of the Youth Justice Group Conferencing (YJGC) program is underway. Many of the components identified in the recommendations will be considered in this review. DOJ is represented in the review governance group. The recommendations from the Victorian Parliament Law Reform Committee (VPLRC) Inquiry will inform this review.</p> |
| <p>46. Consistent performance indicators and data collection methodologies for restorative justice</p> | <p>Accept in Principle</p> | <p>As part of DOJ's exploration of the development of further restorative justice programs, consideration will be given to developing consistent performance indicators and data collection methodologies that could apply to the YJGC Program, the Young Adult RJ Group Conferencing Program, (YARJGCP) and any further RJ programs.</p> <p>See also 45.</p> |
| <p>47. Collecting and reporting data about restorative justice</p> | <p>Accept in Principle</p> | <p>As part of DOJ's exploration of the development of further restorative justice programs, consideration will be given to:</p> <p>(a) annual collection and reporting of data for all government RJ programs; and</p> |

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| | | <p>(b) whether or to what extent this should include the data suggested in this recommendation (i.e. user demographics, participant satisfaction, recidivism rates and the reason for participation or nonparticipation in RJ programs).</p> <p>See 45.</p> |
| <p>48. National framework for collecting and reporting data on restorative justice</p> | <p>Accept in Principle</p> | <p>The Government will take this recommendation into consideration; however, it would involve a national initiative, and this would be subject to cross jurisdictional agreement. Further consideration of implementation implications is required.</p> <p>In relation to the YJGC program the Australian Juvenile Justice Administrators group (a sub committee of the Community and Disability Services Ministerial Advisory Committee (CDSMAC)) is working towards the development of a data framework for the comparison of group conferencing programs across Australia.</p> |
| <p>49. Evaluation of restorative justice programs</p> | <p>Accept</p> | <p>See 45.</p> <p>DHS is currently reviewing the YJGC program with the final report expected in May 2010.</p> <p>Existing RJ programs (YJGCP and YARJGCP) have been and continue to be regularly evaluated. Government will ensure that any new (or ongoing) RJ programs receive (or continue to receive) regular evaluation.</p> |

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| 50. Restorative justice (RJ) framework. | Accept in Principle | <p>The recommendation that the government “sets out the overarching objectives and principles of restorative justice in Victoria” is in the process of being partly addressed through the development of the <i>Restorative Justice Policy Framework</i> for DOJ.</p> <p>Note DOJ’s RJ Policy Framework is in the process of being developed and approved. Consideration will be given to developing a whole of government policy.</p> |
| 51. Educating Children’s Court magistrates about the YJGC Program | Accept in Principle | <p>The Government supports a partnership approach to the education of stakeholders regarding restorative justice issues.</p> <p>The Government will explore this recommendation further in consultation with the Judicial College of Victoria.</p> |
| 52. Educating lawyers about the YJGC Program | Accept in Principle | <p>The Government supports a partnership approach to the education of stakeholders regarding restorative justice issues.</p> <p>The Government will explore options for progressing this recommendation in consultation with relevant stakeholders.</p> |
| 53. Participation of Indigenous offenders and victims in restorative justice processes | <p>53.1 – Accept</p> <p>53.2 – Accept in Principle</p> | <p>The YJGC program encourages representatives from Aboriginal co-ops or other agencies to ensure Aboriginal elders attend conferences involving Aboriginal young people.</p> <p>The YJGC program and its practitioners have strong links with local Aboriginal co-operatives to support Aboriginal young people and victims through the YJGC process.</p> <p>DOJ has been consulting with the Koori community through the Regional Aboriginal Justice Advisory Committees and the Aboriginal Justice Forum on the potential for a Koori-specific RJ service.</p> |

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| | | <p>The Government will consider whether or to what extent there is a need to undertake or commission research on the engagement of Koori victims and offenders in restorative justice processes.</p> <p>The specifications of any such research will include the suggestion made in this recommendation that it be “conducted in a manner that actively engages with Indigenous stakeholders to harness Indigenous culture and expertise.”</p> |
| 54. Participation of CALD offenders and victims in restorative justice processes | Accept in Principle | <p>The current review of the YJGC program will consider the CALD background of young people who have participated in the program.</p> <p>DHS is currently reviewing the Youth Justice Group Conferencing program. The recommendations from the VPLRC inquiry will inform this review.</p> <p>The Government will consider whether or to what extent there is a need to undertake or commission research on the engagement of CALD victims and offenders in restorative justice processes. The specifications of any such research will include the suggestion made in this recommendation that it be “conducted in a manner that actively engages with CALD stakeholders to harness CALD culture and expertise.”</p> |
| 55. Review of YJGC Program demand | Accept | <p>DHS is currently undertaking a review of the YJGC program – strategies to address the current and projected demand for the program will be addressed in the review report.</p> <p>The recommendations from the VPLRC inquiry will inform this review.</p> |
| 56. Informing victims about the YJGC Program | Accept in Principle | <p>Generally, Police are expected to inform victims about the YJ Group Conferencing program. There has been discussion between DHS and Victoria Police regarding whether program convenors could make direct contact with victims, however the Privacy Act currently limits this.</p> |

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| | | DHS will continue to work with Victoria Police to enhance knowledge of the program, and to support their role in encouraging victim participation. |
| 57. Training YJGC Program providers about victims' rights and needs | Accept in Principle | <p>The Government is considering a number of issues relating to victims, including training for YJGC service providers.</p> <p>Addressing victims' issues is central to the operations of any restorative justice program. DHS and the Victim Support Agency are working together to ensure support for those victims who participate in the Group Conferencing program</p> |
| 58. Follow-up with victims after a YJGC Program conference | Accept in Principle | <p>The need for, and potential models of, post-conference follow-up with victims is being considered as part of the review of the YJGC Program.</p> <p>The participation and well being of victims is paramount to the YJGC program. Options for post conference follow up will be considered during the review of the YJGC program.</p> |
| 59. Information and training on the YJGC Program for police | Accept in Principle | <p>YJGC providers regularly attend the police academy to talk to recruits about the YJGC program. DHS staff have also attended Police Youth Resource Officer training to provide information about the operations and outcomes of the group conferencing program.</p> <p>There are a number of ongoing activities to improve police knowledge of the YJGC program and its outcomes with young people.</p> |
| 60. Incorporating the YJGC Program conference outcome plan into the offender's sentence | Not Accept | The Government has some concerns with this recommendation as a primary focus of the YJGC Program is the diversion of young offenders away from supervisory orders. The inclusion of components of the outcome plan into sentencing conditions may see an increase in the numbers of young people entering the Youth Justice System unnecessarily. |

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| | | <p>The recommendation to incorporate a young person's outcome plan as a condition of a sentence is contrary to the diversionary objectives of the program.</p> <p>In all Australian juvenile justice jurisdictions conferencing is used to divert young people from further penetration into the justice system.</p> |
| 61. Monitoring YJGC Program conference outcome plans | Accept in Principle | <p>The need for, and potential models of, post-conference follow-up is being considered in the DHS review of the YJGC Program. Recommendations made by the VPLRC in relation to post conference follow up and support for offenders to complete outcome plans will be considered.</p> <p>The introduction of post conference follow up will require further consideration of policy and implementation implications for the program.</p> |
| 62. Support for offenders to complete YJGC Program conference outcome plans | Accept in Principle | <p>The need for, and potential models of, post-conference follow-up with young offenders is being considered as part of the review of the YJGC Program. Recommendations made by the VPLRC in relation to post conference follow up and support for offenders to complete outcome plans will be considered.</p> <p>The Government will further explore the implementation implications for this proposal.</p> |
| 63. Educating lawyers about dispute resolution conferences | Accept in Principle | <p>The ADR Directorate has commenced a project to develop a pilot for improved Dispute Resolution Conferences in the Children's Court, including a program of training for practitioners.</p> <p>The model for the pilot is currently with the Children's Court for consideration.</p> |
| 64. Identification of core skills and attributes of restorative | Accept in Principle | <p><i>Best Practice Standards for Restorative Justice Facilitators</i> has recently been completed by the Victorian Association for Restorative Justice (VARJ), which includes a list of core</p> |

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| justice practitioners | | <p>skills and attributes.</p> <p>The Government will consider whether to endorse these standards for use by any government funded RJ programs.</p> |
| 65. Training for restorative justice practitioners | Accept in Principle | <p>Training is currently undertaken for the YARJGCP at the Neighbourhood Justice Centre.</p> <p>DHS funds and supports a training program for YJGCP convenors.</p> <p>DOJ's exploration of the development of further RJ programs will take into consideration the provision of a comprehensive training program for any RJ practitioners employed to deliver these programs. This will include whether or to what extent the specifications of such a training program will include the suggestions made in this recommendation (i.e. initial training for all new practitioners and a period of mentoring and regular ongoing training).</p> |
| 66. Restorative justice practitioner accreditation | Accept in Principle | <p>An <i>Accreditation Scheme for Restorative Justice Facilitators</i> has recently been completed by VARJ. The scheme will be made available to all RJ facilitators in Victoria.</p> <p>The Government will consider whether to endorse this accreditation scheme.</p> |
| 67. Restorative justice practice standards | Accept in Principle | See 64. |
| 68. Complaints about restorative justice services | Accept in Principle | <p>Currently RJ programs do not have a specific complaints mechanism developed due to the small scale of current RJ programs.</p> <p>The Government will ensure that the YJGCP, YARJGCP and any further RJ programs</p> |

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| | | have clearly articulated complaints policies and complaints handling systems. |
| 69. Restorative justice for adult offenders | Accept in Principle | <p>There is a small pilot for young adults (18-25 year old) offenders at the Neighbourhood Justice Centre. DOJ is currently exploring the further development of RJ programs for adult offenders. This includes considering how this recommendation might be implemented.</p> <p>DOJ will be exploring the development of further RJ programs for adults.</p> |
| 70. YJGC Program serious offences pilot | Accept in Principle | <p>The Government advise that a pilot is probably unnecessary given the current operations of the program. The enabling legislation within the Children, Youth and Families Act does not preclude any specific offence from being dealt with via conferencing. Since the enactment of the legislation Children’s Court Magistrates have referred a range of serious offenders to the program.</p> <p>The YJGC has a sound track record in dealing with a range of offending issues of young people with complex needs from disadvantaged backgrounds.</p> |
| 71. Adult restorative justice serious offences pilot | Accept in Principle | <p>The Department is exploring the potential for RJ programs for adult serious offences.</p> <p>DOJ will be consulting on whether any further RJ programs should include more serious crimes of violence. Family violence and sexual offences will be excluded from any RJ program in Victoria (see 72 and 73).</p> <p>If a program is developed it will consider the suggestions in this recommendation regarding the need for:</p> |

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| | | <p>(a) “clear eligibility guidelines for participation,</p> <p>(b) “comprehensive specialist training” for RJ facilitators, and</p> <p>(c) the pilot “to be conducted for a sufficient period of time to allow it to be comprehensively evaluated”.</p> |
| 72. Research on restorative justice responses to sexual offences | Under Review | The use of RJ for sexual offences will not be included in any RJ program in Victoria until further research and consultation has been undertaken. However, there is no initiative to undertake further research or consultation on the use of RJ for sexual offences by government at this time |
| 73. Research on restorative justice responses to family violence | Accept | <p>The use of RJ for family violence generally and family violence in indigenous communities will not be included in any RJ program in Victoria until further research and consultation has been undertaken.</p> <p>DOJ has started planning research into the potential application of restorative justice as a component of an effective response to family violence in Koori communities. Substantial evidence exists indicating that effective responses to Koori family violence requires a focus on healing and restoration of family and community relationships, methodologies which are highly compatible with restorative justice models. There are currently no plans to conduct research into other applications of restorative justice</p> |
| 74. Post-sentence restorative justice | Accept in Principle | <p>The YARJGCP at the Neighbourhood Justice Centre does include a post-sentence referral pathway.</p> <p>A young offender focused post sentence program would require a change in policy, as current restorative justice approaches have focused on the diversionary/pre sentence end of the youth justice continuum.</p> |

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| | | <p>This recommendation requires further consideration of implementation implications.</p> <p>DOJ will be consulting on whether or to what extent any further RJ programs will take referrals at the post-sentence stage. This will include taking into account the suggestion that trialing the acceptance of post-sentence referrals “should be conducted for a sufficient period of time to allow it to be comprehensively evaluated.”</p> |
| 75. Effect of participation in restorative justice on offender’s sentence management | Accept in Principle | <p>This recommendation is not currently being considered by YARJGCP.</p> <p>The potential of receiving a reduced or lower level sentence (‘discounts’) to encourage young people to participate in a group conferencing program is appropriate. Young people who participate in conferencing and other restorative justice approaches should be encouraged to undertake this ‘tougher option’ by facing their victim and making amends. In considering whether to include post-sentence referrals in any RJ programs, DOJ will also review whether or not “participation in the program may be taken into account in the offender’s sentence management.”</p> <p>Sentencing ‘discounts’ for participation in the YJGC program are enshrined within the enabling legislation for the program. These discounts are a factor in encouraging young people to participate in the program.</p> |
| 76. Restorative justice in problem-solving courts | Accept in Principle | <p>The Government will consider whether there are suitable ways to allow for victims and for the offender’s community of care to be more fully involved in proceedings in problem-solving courts.</p> <p>There may be aspects of a problem-solving court that are consistent with RJ. However the purpose of these courts is not fully compatible with the objectives of RJ. Specifically, the courts are primarily focused on meeting the rehabilitative needs of the offender; whereas</p> |

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| | | RJ is designed to take into equal consideration the needs of victims. It would, however, be possible to run an RJ process alongside or as an adjunct to a problem-solving court. |
| 77. Increasing community awareness and understanding of restorative justice | Accept | <p>DOJ will develop a community awareness strategy as part of its exploration of the development of further RJ programs.</p> <p>Consideration will be given to working in partnership with the YJGCP and YARJGCP to develop enhanced communication strategies for those programs that might better enable the community to understand the processes and potential benefits of restorative justice. This consideration will take into account the suggestions made in the recommendation, including the use of real examples and stories and the widespread reporting of data and information about the outcomes of restorative justice programs.</p> |
| 78. Increasing information sharing and collaboration | Accept in Principle | <p>The Government will consider proposing to the Standing Committee of Attorneys-General the establishment of a national network to share information about restorative justice in Australia.</p> <p>The National Justice CEOs group has recently undertaken an audit of restorative justice programs across Australia as a first step in increasing information sharing and collaboration.</p> |