

Victoria's legal system

An introduction to the
legal system in Victoria



Victoria**Law**
Foundation

Victoria's legal system

There are many different people and organisations that make up Victoria's legal sector, working together to provide a fair and accessible justice system for all Victorians.

This guide has been developed to help you understand how Victoria's legal sector works.

It explains which laws apply in Victoria and who's who in the legal sector. It will also point you in the direction of other resources if you want to know more.

Laws in Victoria

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Laws in Victoria

In Australia we have a federal system that governs all Australian states and territories; therefore people in Victoria are subject to both federal and Victorian laws.

Under our federal system, power to make laws is shared between the parliament in Canberra and each state parliament.

The federal parliament has power to make laws that affect all of Australia, whereas the Victorian parliament can only make laws that affect Victoria. To reduce confusion, the Australian Constitution outlines the laws that can only be made by the federal parliament.

This section will introduce you to the laws that affect you in Victoria and explain where the laws come from.



The Australian Constitution provides a framework for the development of all laws in Australia.

Vict.]

*Commonwealth of Australia
Constitution Act.*

[Ch. 12.]



CHAPTER 12.

Commonwealth of Australia.

[9th July 1900.]

A.D. 1900.

South Wales, Victoria, South
mania, humbly relying on the
d to unite in one indivisible
of the United Kingdom
the



Australia's federal parliament sits in Parliament House in Canberra.



Where do laws come from?

The laws that affect you as a Victorian come from several different sources: the Australian Constitution, Victorian legislation, federal legislation and common law.

The Australian Constitution

The Australian Constitution is Australia's supreme law, providing a framework for the development of all other laws in Australia by establishing the division of power between the federal and state parliaments. The Constitution also provides fundamental laws and protections for all Australians.

The Australian Constitution was passed in 1900 to ensure greater cooperation between the states, which had been operating as six separate British colonies, with increasing degrees of self-government since European settlement. Under the Constitution, the federal government has the ability to make laws for all Australians—allowing a more coordinated approach to the development of laws of national significance, such as those relating to defence.

In agreeing to the Australian Constitution, the colonies became states and passed some powers to the federal government to make laws for the whole country, while still maintaining the power to make other laws relating to their state.

The division of power established under the Australian Constitution can be changed either by the states referring powers to the Commonwealth or by a vote of the people, known as a referendum. As a result the division of power can change over time.

Victorian and federal legislation **Common law**

Victorian legislation consists of laws made by the state Parliament of Victoria. Federal legislation consists of laws made by the federal parliament in Canberra. The federal parliament can only make law under the powers provided to it under the Australian Constitution or by agreement with the states.

Federal legislation affects all Australians, while Victorian legislation affects only Victoria. At any one time there will be hundreds of pieces of legislation in place, setting out the laws in all aspects of our lives.

To look at examples of legislation, go to www.legislation.gov.au for federal legislation or www.parliament.vic.gov.au/legislation for Victorian legislation.

Common law, sometimes referred to as judge-made law, is law developed by judges as they decide cases.

In deciding cases, judges refer to previous decisions for guidance on how the law is applied. Judges must also interpret the meaning of legislation in relation to particular situations. They record their decisions in written judgments that are then referred to in the future by other judges. This ensures that the law is applied consistently. In this way judges clarify and sometimes refine the meaning of the law, using a system of precedent.

The concept of common law is hundreds of years old and goes back to when there was little or no written legislation. At this time judges referred to other judges' decisions to ensure that matters coming before the court were treated consistently.

What's the difference between ...

Legislation, statutes and Acts?

Nothing ... All these words mean the same thing—laws made by parliament.

Commonwealth, federal and Australian parliament?

Again, nothing. All three terms refer to the Australian parliament in Canberra. You can find out more about the Australian parliament at www.aph.gov.au.

Right: The steps of Parliament House, Spring Street, Melbourne.

Below: Tom Roberts, *The Opening of the First Parliament of the Commonwealth of Australia* by HRH the Duke of Cornwall and York, 9 May 1901 (1903).



The legal sector in Victoria

In Victoria, like other states, there are many different organisations and professionals that make up the legal sector. These include courts and tribunals, the legal profession, government offices and bodies and non-government organisations.

This section of the guide outlines the different parts of the sector and what they do.



The Supreme Court of Victoria is the highest court in Victoria.



SUPREME
COURT

The County Court of
Victoria hears civil,
criminal and criminal
appeal matters.

A photograph of the County Court of Victoria building. The building has a modern facade with large glass windows and a prominent entrance with a glass canopy. The words "County Court" are visible on the building's facade. In the foreground, two people in legal robes are walking down the steps of the entrance. A large sculpture of a figure in a flowing dress is mounted on the wall above the entrance.

County Court



Courts and tribunals

Courts and tribunals apply the law in Victoria.

Which court or tribunal hears a case depends on the court's or tribunal's jurisdiction. *Jurisdiction* refers to the areas of law or monetary limits that may be heard by a court or tribunal. The most serious cases will be heard in the higher courts, while more general cases are heard in the lower courts.

The highest court in Australia is the High Court of Australia.

Court Services Victoria

www.courts.vic.gov.au

Court Services Victoria is an independent statutory body established in 2014. It provides the administrative services and infrastructure necessary for the Victorian courts and Victorian Civil and Administrative Tribunal (VCAT) to operate independently of government departments and agencies.

Visiting courts

You can watch most court and tribunal hearings in Australia. A list of cases sitting each day is available on individual court and tribunal websites.

Victorian courts and tribunals

Supreme Court of Victoria

210 William Street, Melbourne
www.supremecourt.vic.gov.au

The Supreme Court of Victoria is the highest court in Victoria. It is headed by the Chief Justice of Victoria and was established in 1852. The Chief Justice is the most senior judicial officer in the state.

The Supreme Court is divided into two divisions—the Court of Appeal and the Trial Division. The only court that is superior to the Supreme Court is the High Court of Australia. The Supreme Court deals with serious criminal cases and complex civil cases.

The Supreme Court is located in central Melbourne and travels on circuit throughout Victoria during the year—check the Supreme Court website for details.

Court of Appeal

The Court of Appeal is a division of the Supreme Court of Victoria. It is headed by the President of the Court of Appeal and hears appeals from the Trial Division of the Supreme Court and other Victorian courts and tribunals.

The Chief Justice, the President of the Court of Appeal and a number of appeal justices make up the Court of Appeal. Usually three judges will hear an appeal, although five may sit if the matter is very significant.

Trial Division

The Chief Justice and Supreme Court justices make up the Trial Division of the Supreme Court, which hears major criminal matters, including murder, and civil cases involving large sums of money or complex legal matters.

About juries

Juries are an important part of Victoria's civil and criminal law system. Juries comprise citizens randomly chosen from the electoral register and enable non-legal members of our community to participate in the administration of justice.

Juries are required for serious criminal trials and some civil trials in the County and Supreme Courts. Twelve jury members sit in a criminal trial. The jury must decide if the accused person is

guilty as charged. If a jury is empanelled in civil trials (private disputes between parties), there are six jury members. In these cases, the jury must decide which party is at fault.

Most trials take seven to ten days, but they can take longer. Jurors are paid a small amount of money by the court and their employer is required to pay them the amount they would normally earn at work, minus this small stipend. Jury duty is compulsory.



Jury members observe proceedings in a County Court trial.

County Court of Victoria

250 William Street, Melbourne
www.countycourt.vic.gov.au

The County Court of Victoria is headed by the Chief Judge and sits in the middle of the court hierarchy—above the Magistrates’ Court and below the Supreme Court.

The County Court hears civil, criminal and criminal appeal matters. The County Court hears more serious criminal cases than the Magistrates’ Court, including matters involving drugs, robbery, dangerous driving and sex offences. Criminal and civil cases in the County Court may be heard before a judge and jury or a judge alone.

The County Court is located in central Melbourne. It also presently sits at 12 locations across Victoria. Details of when the court is sitting outside Melbourne can be found on the County Court website.

The County Court was established in 1958. Prior to this, regional courts performed the role of the County Court.

What is an appeal?

An appeal is when one of the parties to a case disagrees with the decision given by the court and seeks a review from a higher court.

Magistrates' Court of Victoria

www.mcv.vic.gov.au

The Magistrates' Court is headed by the Chief Magistrate.

The Magistrates' Court handles criminal, civil and some family law matters. Within the Magistrates' Court there are a number of separate jurisdictions and lists which deal with matters on specific topics. The court also operates the Drug Court, Koori Court and the Neighbourhood Justice Centre (see page 20).

Magistrates' Courts sit in 51 locations, and they hear most of the cases that reach court in Victoria. There are no juries in the Magistrates' Court—each case is determined by a single judicial officer.

Criminal matters that are heard in the Magistrates' Court include all summary offences, which are less serious offences than those heard by the County and Supreme Courts. The Magistrates' Court also hears some more serious offences, but only where the accused has elected not to have their case heard before a jury.

This court also conducts hearings called committal hearings, where a magistrate decides if there is enough evidence for a serious case to proceed to the County or Supreme Court.

Bail hearings are also conducted in the Magistrates' Court. This is where a magistrate decides if an accused person on remand should be granted bail and what conditions should be imposed.

The Magistrates' Court can determine most civil disputes in which the disputed amount is \$100,000 or less. Most disputes involving larger amounts are heard in the County or Supreme Courts, but in some circumstances the Magistrates' Court can hear cases involving an unlimited amount.

The Magistrates' Court has been operating since around 1838.

Drug Court

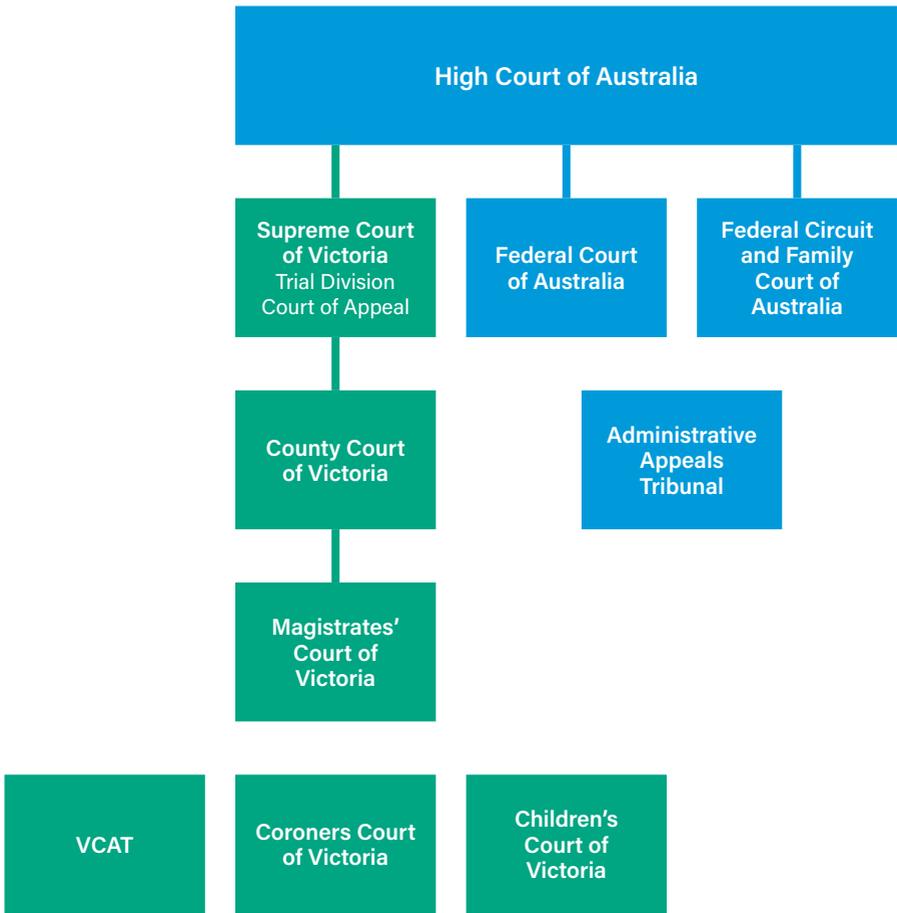
The Drug Court is a division of the Magistrates' Court. It handles criminal cases where the offender has a drug or alcohol problem. The Drug Court has the power to sentence offenders to a Drug Treatment Order, requiring them to undertake a drug treatment program rather than spend time in jail. But a person could still have to go to jail if they breach the Drug Treatment Order.

Assessment and Referral Court

The Assessment and Referral Court is a special list for criminal cases in the Magistrates' Court where the person accused of the crime has a mental illness or cognitive impairment. The court process is more informal than in the ordinary Magistrates' Court.

The Assessment and Referral Court aims to address the underlying factors that cause mentally ill people to commit crime and make sure that they have access to the support services they need. It was set up to help find alternatives to prison sentences for mentally ill people.

It's available at a number of Magistrates' Court venues including Melbourne, Frankston, Moorabbin, Latrobe and Korumburra.



Which courts and tribunals operate in Victoria?

This diagram shows some of the different courts and tribunals that operate in Victoria.

Full details of all the courts and tribunals operating in Victoria, and the types of matters they deal with, can be found in this section.

- Victorian courts and tribunals
- Federal courts and tribunals

Koori Court

The Koori Court is a division of the Magistrates' Court for Aboriginal (Koori) Victorians who have been charged with criminal offences. Koori Courts have been developed to reflect cultural issues and operate in a more informal way than the Magistrates' Court. All the participants sit around a table, including the magistrate, prosecutor, Aboriginal elders, the accused person and members of their family. The matter is then discussed without technical legal language, and the magistrate decides on a sentence that is appropriate for the offender and their community.

Family Violence Court Division

Specialist Family Violence Courts are located in the Magistrates' Courts at Shepparton, Ballarat, Heidelberg, Moorabbin and Frankston. The Division provides specialist services that aim to:

- provide easy access to the court
- promote the safety of people affected by violence
- increase accountability of people who have used violence against family members, and encourage them to change their behaviour
- increase the protection of children exposed to family violence.

Family Violence Court Division features:

- specially trained applicant and respondent support workers who can provide support to parties when their matters are before the Court
- magistrates specifically trained to hear family violence matters
- police prosecutors, outreach workers

and lawyers with special training in and knowledge of family violence matters

- the capacity to hear other matters at the same time as Intervention Order cases. These include bail applications and pleas in criminal cases, family law parenting order matters, and Victims of Crime applications related to family violence
- magistrates are empowered to order male respondents to attend Men's Behaviour Change Programs to change their violent and abusive behaviour.

Children's Court of Victoria

477 Little Lonsdale Street, Melbourne
www.childrenscourt.vic.gov.au

The Children's Court handles cases involving children and young people up to the age of 18, and in some cases up to 19 years. It has two divisions: the Family Division and the Criminal Division. The Family Division deals with matters relating to the care and protection of children and young people at risk, as well as applications for intervention orders. The Criminal Division deals with children and young people accused of committing crime.

Children's Koori Court (Criminal Division)

The Children's Koori Court hears matters in which Koori children and young people plead guilty to criminal offences (other than sexual offences) or are subject to diversion. Diversion provides an opportunity for young people appearing before the criminal division of the Children's Court to complete activities intended to reduce the likelihood of further offending. Sentences imposed in the Koori Court are the same as those imposed in the mainstream court but the court process is

different. A sentencing conversation takes place in court around the specially designed table. Elders or Respected Persons sit beside the judge or magistrate to provide cultural advice to the young person and to the judicial officer. The judicial officer determines the sentence to be imposed.

Koori Family Hearing Day (Family Division)

The Children's Court in Broadmeadows became the first Australian court to establish a Koori Family Hearing Day, known as Marram-Ngala Ganbu (MNG) meaning 'We are One' in Woiwurrung language. Now available in Broadmeadows and Shepparton, MNG aims to improve outcomes for Koori children in child protection proceedings, providing a culturally-appropriate process to assist in decision making. It also aims to ensure that recognition is given to an Aboriginal child's right to be raised in his/her own culture and the importance and value of family, kinship networks, culture and community in raising Aboriginal children.

Family Drug Treatment Court (Family Division)

The Family Drug Treatment Court (FDTC) is a program within the Family Division of the Children's Court of Victoria that commenced at the Broadmeadows Children's Court and has now been expanded to the Shepparton Children's Court. The FDTC program is designed to assist families whose children have been placed in out of home care due to parental substance misuse. The program aims to support parents to stop using drugs and alcohol, and address safety concerns in order to achieve family reunification in a way that is safe and sustainable for children.

Participants are supported by a dedicated team of professionals including a dedicated FDTC Magistrate, a child protection Practice Leader, a Clinical Practice Leader and Clinical Case Managers.

Coroners Court of Victoria

65 Kavanagh Street, Southbank
www.coronerscourt.vic.gov.au

The Coroners Court investigates the cause and circumstances of some deaths and fires. Unlike other courts, it is investigative rather than adversarial. A coroner cannot find guilt or innocence, or criminal liability. Their primary purpose is to make recommendations to help prevent similar deaths or fires in the future. Not every death in Victoria is investigated by a coroner.

Coroners can only investigate deaths that are unexpected, unnatural, violent or which resulted from accident or injury. This can include deaths that occur during or following a medical procedure, or where a doctor is unsure of the cause of death. A coroner must investigate the death of anyone who has died while in state custody. Coroners must also investigate reviewable deaths. Reviewable deaths occur when two or more children of the same parents have died.

Formerly the State Coroner's Office, the jurisdiction became a court in its own right with the commencement of the *Coroners Act 2008* in November 2009.

The Children's Court is separate from the Family Court and the Federal Circuit Court which deal with family law matters.



Different courts and tribunals operate in different ways. Some courts are designed to accommodate different cultural needs, like the Koori Court. Some tribunals, like VCAT, are less formal to help people to represent themselves and to reduce the cost of going to court.

Neighbourhood Justice Centre

241 Wellington Street, Collingwood
www.neighbourhoodjustice.vic.gov.au

The Neighbourhood Justice Centre is a division of the Magistrates' Court that brings together integrated support services and community programs. It aims to tackle the underlying causes of criminal behaviour and disadvantage, reducing crime and improving the wellbeing of the community.

The centre's magistrate hears Magistrates' Court and Children's Court (criminal division) matters. VCAT and the Victims of Crime Assistance Tribunal also sit at the centre.

Clients receive a broad range of services including alcohol and other drug assessment and support, mental health assistance, financial counselling, employment assistance, and specialist family violence assistance.

Victorian Civil and Administrative Tribunal (VCAT)

55 King Street, Melbourne
www.vcat.vic.gov.au

The Victorian Civil and Administrative Tribunal (VCAT) makes decisions about a wide range of disputes in Victoria.

People mostly come to VCAT to resolve renting, consumer and planning disputes, and to sort out guardianship and administration arrangements for family and friends unable to make reasoned decisions due to disability. VCAT's role is to make a fair decision according to the law.

The tribunal determines cases about residential and retail tenancies, equal opportunity, domestic building, guardianship, legal practice, owners' corporations, goods and services, health and information privacy, the sale and ownership of property and a range of other matters.

VCAT also deals with applications from people seeking review of government and other decisions that affect them.

VCAT Lists

Building and Property	Owners Corporations
Civil Claims	Planning and Environment
Guardianship	Residential Tenancies
Human Rights	Review and Regulation
Legal Practice	

These include decisions relating to the development and use of land, Transport Accident Commission findings, state taxation, legal services, WorkSafe assessments; and business licences, professional registrations and disciplinary proceedings across a range of professions and industries.

The tribunal has nine separate lists (groups of similar cases) across five divisions: administrative, civil, residential tenancies, planning and environment, and human rights. It offers alternative dispute resolution, such as mediations and compulsory conferences, to help resolve disputes.

VCAT was established in 1998.

Victims of Crime Assistance Tribunal

233 William Street, Melbourne
www.vocat.vic.gov.au

The Victims of Crime Assistance Tribunal, headed by the Chief Magistrate of the Magistrates' Court of Victoria, gives financial assistance to Victorians who have been injured by an act of violent crime. This tribunal operates at every Magistrates' Court in Victoria. Victims of crime and their families can make an application to the Tribunal, which will decide if they are entitled to financial assistance and, if so, how much. The act of violence must have occurred in Victoria, and it must have resulted in injury or death to at least one person. The word *injury* includes physical harm, mental illness and pregnancy. It does not include damage to property or theft.

The Victims of Crime Assistance Tribunal was established in 1996.

Federal courts and tribunals

The Victorian court system includes federal courts. These are courts that apply laws made by the federal parliament in Canberra. These courts include the Federal Circuit and Family Court of Australia and the High Court of Australia.

The federal courts in Melbourne primarily sit at the Commonwealth Law Courts on the corner of William and La Trobe streets.

High Court of Australia

www.hcourt.gov.au

The High Court is Australia's federal constitutional court and the highest court of appeal. It is headed by the Chief Justice of the High Court. The High Court interprets and applies the law of Australia; decides cases of special federal significance, including challenges to the constitutional validity of laws; and hears appeals, by special leave, from federal, state and territory courts, including the Supreme Court of Victoria.

When deciding whether to grant special leave to appeal, the High Court considers whether the matter involves a question of law that is of public importance, whether there are differences of opinion between courts or within a court as to the state of the law on the matter and whether the appeal should be heard in the interests of the administration of justice.

The High Court was established in 1901 under the Australian Constitution. The first sitting of the High Court took place in the Banco Court of the Supreme Court in Melbourne on 6 October 1903. While most sittings are held in the national capital, Canberra, the court may sit in the capital cities of the states. Applications for special leave are heard one day each month in Melbourne or Sydney and on occasion by video link with other capital cities. Check the High Court website for visiting dates.

Federal Court of Australia

www.fedcourt.gov.au

The Federal Court of Australia deals with complex matters of federal law, including shipping law, bankruptcy, corporations law, commercial and competition law, constitutional and administrative law, native title and some criminal matters. The Federal Court of Australia also deals with appeals from the Federal Circuit Court of Australia.

The Federal Court opened in 1977.

Federal Circuit and Family Court of Australia

www.familycourt.gov.au

The Federal Circuit and Family Court of Australia was created in 2021 by the amalgamation of the Family Court of Australia and the Federal Circuit Court of Australia. It comprises two divisions: Division 1 (a continuation of the Family Court of Australia) which deals only with complex family law matters including all appeals. Division 2 (a continuation of the Federal Circuit Court of Australia) deals with divorces, parenting and property disputes and other family law matters. Division 2's general federal law jurisdiction includes human rights, bankruptcy, migration, industrial law, copyright and other intellectual property, discrimination, privacy consumer law, admiralty and administrative law.

It operates nationally, but in Victoria, the registries are located in Melbourne and Dandenong. It also circuits to Ballarat, Bendigo, Geelong, Mildura, Morwell, Shepparton and Warrnambool.

Administrative Appeals Tribunal (AAT)

www.aat.gov.au

The Administrative Appeals Tribunal independently reviews certain decisions made under federal law. The AAT reviews decisions on their merits which means taking a fresh look at all facts, law and policy relating to the decision and arriving at their own decision.

The most common types of decisions the AAT reviews are related to:

- child support
- federal workers' compensation
- family assistance, paid parental leave, social security and student assistance
- migration and refugee visas and visa-related decisions
- taxation
- veterans' entitlements.

The AAT also reviews decisions relating to:

- Australian citizenship
- bankruptcy
- civil aviation
- corporations and financial services regulation
- customs
- freedom of information
- the National Disability Insurance Scheme
- passports and
- security assessments by the Australian Security Intelligence Organisation (ASIO).

The AAT commenced operations on 1 July 1976.





Government

Many government bodies deal with legal or law-related matters. The following are the most significant, working directly within the legal sector.

Attorney-General of Victoria

The Attorney-General of Victoria is the state government minister responsible for the legal system in Victoria, including all the Victorian courts and tribunals. The person who holds the office of Attorney-General is an elected member of the Victorian Parliament.

The Attorney-General is responsible for advising the government on improving the legal system. This includes providing advice on general government policy relating to the law and the courts, as well as recommendations for law reform. This practical work is carried out by the Department of Justice and Community Safety, the department of the Victorian public service that provides advice and support to the Attorney-General.

Department of Justice and Community Safety

www.justice.vic.gov.au

The Department of Justice and Community Safety has a broad scope that includes coordinating and improving the justice and legal system, ensuring it works efficiently and effectively. It is responsible for developing and implementing new laws and government policy, as well as running the state's corrections and youth justice systems.

The state Parliament of Victoria is located on Spring Street in central Melbourne.

Director of Public Prosecutions and the Office of Public Prosecutions

www.opp.vic.gov.au

The Director of Public Prosecutions has responsibility for prosecuting all indictable offences under Victorian law in the High Court, the Supreme Court of Victoria and the County Court of Victoria.

In 1983, Victoria became the first jurisdiction in Australia to establish an independent Director of Public Prosecutions.

The Office of Public Prosecutions is an independent statutory authority responsible for preparing and presenting cases in court on behalf of the Director of Public Prosecutions, briefing Crown Prosecutors, private barristers or its own Solicitor Advocates.

It is involved in a range of matters including:

- all murders
- corruption cases involving police or lawyers
- major sex offence cases
- major drug and fraud cases
- criminal appeals in the Court of Appeal and the High Court.

The Office of Public Prosecutions also supports a range of other statutory authorities and state government departments in the prosecution of serious offences.

Commonwealth Director of Public Prosecutions

www.cdpp.gov.au

The Office of the Commonwealth Director of Public Prosecutions (CDPP) is an independent service to prosecute alleged offences against federal law.

The matters they prosecute are diverse and complex, including terrorism, serious drug offences, money laundering, human trafficking and slavery, people smuggling, child exploitation, cybercrime, revenue and benefits fraud, environmental crimes, corruption and failing to vote.

Crime in Victoria

Most criminal law in Victoria is made by the Victorian parliament and enforced by state government departments, including Victoria Police and the Office of Public Prosecutions.

There are some crimes that the Victorian government does not deal with—these are crimes that affect the whole Australian nation in some way or crimes that have an international aspect. The federal government makes laws regarding these crimes, and they are enforced by the Australian Federal Police. Federal crimes include people smuggling, cybercrime and international drug trafficking.



Victoria Police

www.police.vic.gov.au

The role of Victoria Police is to serve the Victorian community and uphold the law by:

- preserving the peace
- protecting life and property
- preventing offences
- detecting and apprehending offenders
- helping those in need.

Victoria Police investigate traffic and criminal matters under state and federal legislation. In some circumstances Victoria Police may also appear in court to prosecute breaches of the law.

Australian Federal Police

www.afp.gov.au

The Australian Federal Police enforces criminal laws developed by the federal government, and protects Australia's interests from crime in Australia and overseas. It works closely with Victoria Police and other state, national and international law-enforcement bodies.

Matters investigated and prosecuted include terrorism, drug trafficking, people smuggling, high-tech crime involving information technology and communications, and money laundering.

Victorian Ombudsman

www.ombudsman.vic.gov.au

The Ombudsman is an independent, impartial and cost-free body which holds the Victorian public sector accountable. If people think they have been treated wrongly by a Victorian public body, the Ombudsman can see if the problem can be fixed.

The Ombudsman can look into complaints about local councils, Victorian government departments, Victorian government organisations, Victorian universities and TAFEs, publicly funded community services, prisons and some professional boards.

There are several different Ombudsmen for different kinds of complaints, and the website will help you find the right one for you.

Adult Parole Board

www.adultparoleboard.vic.gov.au

The Adult Parole Board is an independent body established under Victorian legislation. It makes decisions about whether to grant, deny or cancel a prisoner's parole. When making parole decisions, the Board's paramount consideration is always the safety and protection of the community.

The Board has no role in the sentencing process – only courts can impose a sentence and set a non-parole period. The Board decides if, when and under what conditions the prisoner is released on parole in accordance with the court's sentence.

The Board includes full-time members, people with experience as judges or



magistrates, and members of the community. Panels of the Board sit daily and can be convened outside business hours for urgent decisions. Panels normally comprise one from each group.

Prisoners categorised as Serious Violent Offenders or Sexual Offenders are considered by two divisions of the Board to provide a higher level of scrutiny before parole is granted.

Parole means prisoners have a supervised, supported and structured transition back into the community. Prisoners must apply if they wish to be considered for parole.

The Board receives comprehensive reports from Community Correctional Services (CCS) to inform its decisions. Registered victims can also write a submission to the Board which the members must take into account when they determine a prisoner's parole.

Prisoners on parole must comply with conditions imposed by the Board. They are monitored and supervised in the community by parole officers from CCS. If a prisoner's risk to the community escalates, the Board may cancel their parole and return them to prison.

Parole is the release of a prisoner under conditions at the end of their non-parole period in prison.

While on parole, the prisoner continues to serve their sentence in the community on conditions set by the Adult Parole Board.

Post Sentence Authority

www.postsentenceauthority.vic.gov.au

The Post Sentence Authority is responsible for reviewing and monitoring offenders who are subject to Victoria's post sentence scheme.

Under this scheme, some serious sexual and violent offenders must comply with ongoing supervision or detention orders after their sentence is complete.

Post sentence orders are made when courts decide that a serious offender poses an unacceptable risk to the community. The courts rely on expert evidence when making these decisions.

The Post Sentence Authority periodically reviews the progress of serious offenders and monitors risks of reoffending. The Authority can take action if an offender breaches the conditions of their order, or if the risk of reoffending escalates and the Authority becomes concerned about community safety.

The Authority can issue formal warnings or recommend that the Department of Justice and Community Safety prosecutes the offender. It also makes decisions about how an offender is managed in the community – such as imposing a tighter curfew or requiring them to wear an electronic monitoring device.

The Authority also plays a role in supporting the coordinated delivery of offender treatment and rehabilitation.

These functions support the protection of the community and help to ensure that serious offenders are receiving services that help manage their risks of reoffending.





Legal profession

The legal profession is an integral part of the legal system in Victoria. Legal professionals work across many organisations and bodies as well as providing advice and appearing in court. In Victoria lawyers practise as either solicitors or barristers.

Practitioners

Solicitors

If you have a legal problem that you need help with, you will generally first seek advice from a solicitor.

Solicitors advise clients on legal matters, prepare legal documents and brief barristers about the details of their clients' claims so that a barrister can represent their client in court.

Some solicitors represent clients in the Magistrates' Court or help barristers represent clients in higher courts. A very small number of solicitors act as advocates in the higher courts.

Solicitors can work for themselves, private law firms or for other organisations such as government, community legal centres or Victoria Legal Aid.

Barristers

Barristers are lawyers who specialise in representing clients in court. Generally, a client will first seek advice from a solicitor who then briefs a barrister if the matter is to go to court or if specialist advice is required.

The most skilled barristers are recognised by the titles Queen's Counsel (QC) or Senior Counsel (SC). QCs and SCs are also known as silks.

Professional associations

Solicitors and barristers have their own professional associations.

Law Institute of Victoria

www.liv.asn.au

The Law Institute of Victoria is the state's peak body for lawyers. The Law Institute of Victoria's purpose is to be a leader and innovator of the legal profession, to support and inform members, and to raise the profile and standing of the legal profession.

The Law Institute of Victoria's Find Your Lawyer Referral Service assists the public to find a law firm to help them with their legal issue.

You can visit www.liv.asn.au/find-a-lawyer or call (03) 9607 9550.

Victorian Bar

www.vicbar.com.au

The Victorian Bar is the professional association for barristers. Barristers are specialist advocates who advise and represent litigants in courts, tribunals, mediations and arbitrations.

Finding a barrister

Victorian barristers' details can be found on the Victorian Bar website www.vicbar.com.au.

A barristers' clerk acts like an agent for barristers. They are familiar with the skills, expertise, experience and availability of the barristers on their list, and can liaise with solicitors and clients to identify the best person to be the barrister in each case.

Barristers can also be briefed directly for certain matters via www.barristerconnect.com.au.

How do I find a lawyer?

Finding the right legal service can be difficult. Victoria Legal Aid, the Federation of Community Legal Centres and the Law Institute of Victoria can all assist you in finding the right legal or related service for your needs.

For more information on legal services in Victoria, see the Law help guide, available online at www.legalaid.vic.gov.au.



Solicitors and barristers provide legal advice to clients.



Regulating the profession

Victorian Legal Services Board + Commissioner

www.lsbvc.vic.gov.au

The Victorian Legal Services Board and Commissioner are responsible for regulating all lawyers in Victoria. The Board and Commissioner are independent of the government and the legal profession.

Victoria is part of the 'Legal Profession Uniform Law' scheme, which also covers NSW and ensures that lawyers in both states comply with the same rules.

Victorian Legal Services Board

The Board is responsible for regulating all lawyers in Victoria and works closely with the Law Institute of Victoria and the Victorian

Bar as the legal profession's representative bodies. The Board also has a consumer protection role by licensing all lawyers to practise in Victoria and undertaking compliance and enforcement activities. The Board publishes information to help the public find out if a person is a registered lawyer, or whether a lawyer has been found guilty of a misconduct offence.

Victorian Legal Services Commissioner

The Commissioner handles complaints about lawyers registered in Victoria. These complaints can be about a lawyer's professional behaviour, the quality of service they have provided or about the costs they have charged. The Commissioner also educates lawyers about professional responsibility, as well as educating the public about what they can expect when they deal with lawyers.

Victoria Legal Aid's
Community Legal
Education team works
with leaders of newly
arrived communities to
deliver legal information
sessions.





Legal assistance services

While there are many legal practitioners working in private practice in the Victorian legal sector, many also work for statutory or independent bodies that offer free or low-cost legal services.

Victoria Legal Aid

www.legalaid.vic.gov.au

Victoria Legal Aid is an independent, statewide organisation that assists people with legal problems, especially Victorians who are financially or socially disadvantaged. Victoria Legal Aid has 15 offices throughout Victoria.

Victoria Legal Aid assists Victorians to find the most appropriate legal service.

Victoria Legal Aid provides a number of services, including:

- free legal advice
- duty lawyers at courts and tribunals
- legal information in many languages.

Victoria Legal Aid also provides funding to help people run a case when they cannot otherwise afford to do so, though this is means tested.

Victoria Legal Aid provides advice on criminal law, family law and some civil law matters.

Victoria Legal Aid runs a phone advice in more than 22 languages. You can contact the Legal Help service on 1300 792 387.

Community legal centres

www.fclc.org.au

Community legal centres (sometimes referred to as CLCs) are independent, not-for-profit community organisations that provide free legal services to members of the public. Community legal centre services focus on disadvantaged people and those with special needs.

Generalist community legal centres assist people within their local area with a range of legal issues. Specialist community legal centres focus on groups of people with specific needs (such as women, people with disabilities, students) or on particular areas of law (such as consumer rights, environmental law, tenancy) throughout Victoria.

There are 47 community legal centres in Victoria. The peak body for community legal centres is the Federation of Community Legal Centres (Victoria). Information about community legal centres and legal information and resources can be found on their website. The federation can help you to find the most appropriate community legal centre. You can contact the federation on (03) 9652 1500.



Laws in Victoria are made by the Victorian parliament.



Law reform

The state and federal parliaments have the power to amend existing laws and make new ones. Before a law is amended or a new one is made, considerable consultation, research and planning takes place to ensure that the laws are needed and will work. There are a number of bodies within the legal sector that undertake this work.

Victorian Law Reform Commission

www.lawreform.vic.gov.au

The Victorian Law Reform Commission is an independent, government-funded organisation that develops, monitors and coordinates law reform in Victoria. The commission has a charter to consult the community and advise the Attorney-General on ways to improve and update Victorian laws. The commission's major responsibility is to research issues referred to it by the Attorney-General (these are called references), but it also has the power to recommend minor changes to the law, without a reference, through its community law reform program.

The Victorian Law Reform Commission was established in 2001.

Sentencing Advisory Council

www.sentencingcouncil.vic.gov.au

The Sentencing Advisory Council was set up to bridge the gaps between the community, the courts and government by informing, educating and advising on sentencing issues.

The council's functions include the provision of statistical information on sentencing, including information on current sentencing practices; conducting research and disseminating information on sentencing matters; gauging public opinion on sentencing; consulting on sentencing matters; and advising the Attorney-General on sentencing issues.

Australian Law Reform Commission

www.alrc.gov.au

The Australian Law Reform Commission is an independent federal agency that reviews Australia's laws to ensure they provide improved access to justice for all Australians by making laws and related processes more equitable, modern, fair and efficient.

The commission cannot change the law, but rather makes recommendations to the government on how the law can be improved.

The Australian Law Reform Commission was established in 1975.

Do you need help?

A 3-step guide to solving everyday problems

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A 3-step guide to solving everyday problems

Problem at work?

Problems at work?

Issues with your landlord?

Splitting up with your partner?

Money worries?

Disagreements with your neighbours?

Think you might've been scammed?

Unpaid fines?

Suffered discrimination?

You could have a legal issue or know it! Here's what you can do...



Public education in the law

Victoria Law Foundation

www.victorialawfoundation.org.au

Victoria Law Foundation is an independent statutory body that supports better justice for all Victorians through research, education and grants.

This publication is part of our education program, which builds better understanding of the law through events and resources. Events include Law Week in May, public forums on legal issues, as well as extensive work with schools.

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