

Rec No.	Recommendation of Open Courts Act Review	Proposed Government Response
1	Sections 4 and 28 of the Open Courts Act 2013 (Vic) be amended to make clear that orders made under the Act constitute exceptions, based on necessity in the circumstances, to the operation of the principle of open justice rather than it being a matter of the operation of a presumption in favour of transparency	Support
2	Open Courts Act be amended to include a new preamble emphasising the fundamental importance of transparency in our legal system	Support
3	Open Courts Act be amended to restrict the power to make suppression orders to situations not otherwise encompassed by statutory provisions prohibiting or limiting publication	Support
4	In order to ensure consistency of approach to principle and practice in relation to suppression orders and related areas, the Victorian Law Reform Commission be requested to report on the possible reform of the <i>Judicial Proceedings Reports Act 1958</i> (Vic) and the codifying of the law relating to contempt of court, including the legal framework and processes for enforcement	Support
5	<ol style="list-style-type: none"> 1 The harmonisation of the law and practice relating to suppression orders be referred to the Council of Attorneys-General for further consideration 2 Whether or not this recommendation is accepted, the Council of Attorneys-Generals be requested to consider the desirability of the development of a system for interstate and territory recognition and enforcement of suppression orders 	Support. At the Council of Attorneys-General meeting held in Sydney on 1 December 2017, jurisdictions agreed that the Commonwealth Government would undertake a stocktake of the suppression order regimes operating across Australia.
6	In each matter in which a suppression order is made, the court or tribunal be required to prepare a written statement of its reasons for the order, including the justification for its terms and duration. Save for restrictions and redactions reasonably required to effect the purpose and efficacy of the order, these reasons should be publicly available	Support
7	A central, publicly accessible register of suppression orders made by all Victorian courts and tribunals containing details of their terms and duration and, to the extent reasonably possible in the circumstances the reasons for them, be established	Support in principle

8	All suppression orders should be treated as interim for a period of five days to enable interested parties to present submissions as to their necessity or terms. In the absence of any such challenge, the orders would continue in effect for the period and terms stated	Support in principle
9	In the event of an appeal being lodged against the outcome of proceedings in which a suppression order was made, the order would continue in effect until the determination of the appeal or it is discharged or varied on application to the court or tribunal hearing the appeal	Support
10	The Open Courts Act be simplified by removing the unnecessary distinction between broad and proceedings suppression orders	Support
11	The Judicial College of Victoria be approached with a view to establishing programs and materials to improve the level of understanding within the judiciary concerning the operation of the Open Courts Act and other legislation restricting the public dissemination of information relating to legal proceedings	Support
12	A formal relationship be developed through the Department of Justice and Regulation between the media, the courts and legal practitioners with the purpose of addressing the issues presented in effecting an appropriate balance between openness and the suppression of information in our court and tribunal processes	Support
13	Consideration be given to statutory reform to enable the discretionary disclosure of the relevant convictions of juvenile offenders in cases of their continuing and entrenched propensity to engage in serious offending as adults	Support in principle
14	Section 184 should be amended to restrict the making of suppression orders concealing the identity or whereabouts of persons subject to supervision under the <i>Serious Sex Offenders (Detention and Supervision) Act 2009 (Vic)</i> . In so restricting the making of suppression orders, the Act should continue to have regard to the ramifications of disclosure, including the personal safety of individuals.	Support in principle
15	Adult victims of sexual assault or family violence or who as children have been so subjected should, on the conviction of the offender, be able to opt for disclosure of their identity. In situations where there is more than one victim, the court would be required to refuse an application where disclosure of the identity of a victim or perpetrator would	Support in principle

	result in that of a non-consenting victim or impose any conditions required in the circumstances to secure the anonymity of a non-consenting victim	
16	Section 534 of the <i>Children, Youth and Families Act 2005</i> (Vic) be amended to enable adult victims who are also witnesses to disclose their own identities, provided that to do so does not breach any other of the requirements of the section	Support. The Government has passed the Justice Legislation Amendment (Victims) Act 2018, which amended section 534 of the <i>Children, Youth and Families Act 2005</i> .
17	It becomes mandatory at initial bail hearings consequent upon the laying of charges in relation to alleged sexual or family violence criminal offences for an interim suppression order to be issued. This order would remain in effect for five working days. Alternatively, the Judicial Proceedings Reports Act should be amended to the same effect	Support in principle
18	<p>Provided the Public Interest Monitor receives the additional funding and resources necessary to perform the following functions:</p> <ol style="list-style-type: none"> 1. The Monitor should be empowered, if requested by the judge to appear as contradictor, to make submissions and ask questions when the judge is determining whether orders should be made under the Open Courts Act, on what grounds and the framing of their scope. 2. Orders, once made, can be referred to the Monitor for consideration by interested parties to enable the independent consideration of the need, terms and duration of the order while maintaining the security of the underlying information. The Monitor's decision whether or not to pursue the review of an order is final. 3. If it is considered necessary in the public interest to intervene, the Monitor should be able to seek the review of the order by the judge or prosecute an appeal. 4. The Monitor would report annually to the Attorney General on the operation of the Open Courts Act. 	Subject to further consideration