Submission to the Sentencing Advisory Council:

Reforming Sentence Deferrals in Victoria

To: Professor Marilyn McMahon
Chair, Sentencing Advisory Council

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INTRODUCTION

The Law Institute of Victoria (**LIV**) is Victoria's peak body for lawyers and those who work with them in the legal sector.

The LIV welcomes this inquiry and is grateful for the opportunity to provide the Sentencing Advisory Council with a submission responding to its Consultation Paper on Reforming Sentence Deferrals in Victoria (the **Consultation Paper**).

This submission has been prepared by the LIV's Criminal Law Section (**CLS**). The CLS has a long history of contributing to, shaping, and developing, effective criminal legislation, and has undertaken extensive advocacy on law reform issues.

The submission that follows provides general comments regarding the subject matter of the Consultation Paper, and then responds to each of the Consultation Paper's questions.

General comments

Deferred sentencing is a pre-sentencing device available under section 83A of the *Sentencing Act 1991* (Vic) (**Sentencing Act**) that allows Victorian Magistrates and County Court Judges to, after finding a person guilty of an offence, defer sentencing for up to 12 months if doing so would be in the interests of the offender. During the period of the deferral, the offender is required to adhere to certain rehabilitative conditions, compliance with which demonstrates to the court that the offender wants to be, and can be rehabilitated. This enables the court to determine the most appropriate outcome for the offender at the conclusion of the deferral period,[1] which may be to take no further action or to proceed to sentencing.[2]

[1] Sentencing Advisory Council, A Quick Guide to Sentencing, 16 (Melbourne, 2021), Victorian Sentencing Manual, Method and Process – Imposition of Sentence – 2.4.2 Timing and Deferral of Sentence (4th Edition).

[2] Sentencing Act 1991 (Vic) s 83A(1D); Victorian Sentencing Manual, *Method and Process – Imposition of Sentence* (Sentencing Manual, 4th Edition – 2.4.2 Timing and Deferral of Sentence (4th Edition).

Though robust empirical studies on the impact of rehabilitative treatment programmes on recidivism appear to be lacking in the Australian context,[3] international research generally demonstrates that offender rehabilitation programmes, particularly when carried out in non-custodial settings,[4] are associated with a reduction in recidivism rates.[5]

Assuming the same is true in Victoria, deferred sentencing has the potential to reduce crime rates and thereby improve community safety, reduce costs to the State, and improve the socio-economic wellbeing of offenders by helping them to 'deal with factors contributing to their criminal behaviour',[6] which may stem from trauma, poor mental health, or addiction.

For this reason, the LIV supports deferred sentencing in appropriate circumstances. However, it is of the view that the use of sentence deferrals could be improved and extended in Victoria so that they are better able to fulfil their rehabilitative potential. The LIV's views on how this might be achieved are detailed in the following pages, which respond to the Consultations Paper's Discussion Questions.

[3] See, e.g., Andrew Day, 'At a crossroads? Offender rehabilitation in Australian prisons' (2020) 27(6) *Psychiatry, Psychology, and Law,* 939–949.

[4] See, e.g., Denis Yukhnenko et al, 'Recidivism rates in individuals receiving community sentences: A systematic review' (2019) 14(9) PLOS ONE; Hilde Wermink et el, 'Comparing the effects of community service and short-term imprisonment on recidivism: a matched samples approach' (2010) 6 *Journal of Experimental Criminology,* 325–349.

[5] See, e.g., Kevin Howells and Andrew Day, 'The Rehabilitation of Offenders: International Perspectives Applied to Australian Correctional Systems' (1999) 112 *Trends and Issues in Crime and Criminal Justice*, 5.

[6] Victoria, *Parliamentary Debates,* Legislative Assembly, 25 March 1999, 193 (Second Reading Speech by Attorney-General Wade).

Responses to Questions

1. Should sentence deferrals be available in the Supreme Court?

This LIV notes that sentence deferrals can be made 'informally' by the Supreme Court through the Court's general adjournment power, as acknowledged in the Consultation Paper. However, the LIV is not aware of this power being exercised in a manner that is equivalent to a section 83A sentence deferral.

The LIV believes that making section 83A sentence deferrals available in the Supreme Court would be beneficial, even if this power is seldom used.

The LIV considers that doing so will clearly signal that sentence deferrals are available and can be made in that jurisdiction. As section 83A currently provides that sentence deferrals are only available in the Magistrates Court and the County Court, practitioners and Judges may not consider them to be an available option, even in circumstances where they would be appropriate and could, theoretically, be made through the Court's general adjournment power. Amending section 83A to explicitly provide that section 83A sentence deferral orders can be made in the Supreme Court would help to overcome this, if coupled with adequate education and training.

Further, making section 83A sentence deferrals available in Supreme Court matters will regularise their use by creating rules about when they are appropriate and what conditions must be satisfied for one to be ordered. This provides clarity about when a sentence deferral is suitable and certainty about the process.

Most importantly, however, the LIV considers that an amendment to section 83A is necessary because Supreme Court Judges should be able to deploy whatever sentencing or pre-sentencing option is most appropriate to the case before them. Supreme Court Judges are highly trained experts who are best placed to make decisions about what is most appropriate in the circumstances, and it is appropriate that they be afforded the power to defer a sentence under section 83A if they deem it fitting to do so.

2. What, if any, are the current barriers to using sentence deferrals in appropriate cases? What changes would you propose to overcome those barriers, and why?

The LIV submits that there appear to be several barriers to the use of section 83A sentence deferrals, namely:

(a) a lack of awareness of them and when they may be appropriate;

(b) an apparent reluctance to make deferral orders in certain cases;

(c) limited access to appropriate rehabilitative treatment services;

(d) inadequate legal aid funding for adjournments; and

(e) client resistance to paying a subsequent day fee for their lawyer to attend court for a deferral.

Lack of awareness

As reported in the Consultation Paper[7] and by LIV members, the first barrier to the use of sentence deferrals is lack of awareness that they exist.

LIV members report that some judicial officers and practitioners appear unaware that sentence deferral is an option. This reportedly manifests as a failure to identify instances when a deferral might be suitable, and in practitioners' submissions being geared towards the finalisation of matters. The LIV considers this awareness gap may stem from lack of education or training about sentence deferrals, which could be addressed by targeted education and training.

Reluctance to make orders

A second barrier to the use of sentence deferrals reported by LIV members is an apparent reluctance among some judicial officers to use them, which members suggest is due to concerns

[7] Sentencing Advisory Council, *Reforming Sentence Deferrals in Victoria: Consultation Paper* (Consultation Paper, October 2022) [2.22] 14.

regarding a risk of harm to victims and/or that a deferred sentence would be futile as a custodial sentence will be required in any event. The existence of this barrier is supported by the findings of the Sentencing Advisory Council's consultations and survey.[8]

The LIV notes that these considerations are not strictly relevant under section 83A(1A), which requires consideration only of whether the deferral would be in the best interests of the offender. While the LIV considers that this section should be amended (see question 5, below), if the current form of this section is retained, the LIV submits that guidelines on the factors that are relevant to the assessment of whether an order would be in the interests of an offender should be made available to the profession and judicial officers - assuming they do not already exist. If they do, the LIV suggests that training and education could be carried out to improve awareness.

Limited access to rehabilitative treatment services

A third barrier to the use of sentence deferrals is limited access to appropriate rehabilitative treatment services.

As reported by Mental Health Victoria and the Mental Health Legal Centre in their submission to the Royal Commission into Victoria's Mental Health System, '[Victorian] treatment services do not have the capacity to adequately address the mental health and well-being needs of Victorians'. [9] Decades of underinvestment, inadequate system level planning and monitoring, and chronic under-resourcing of rehabilitative treatment services has resulted in the rationing of services, ageing infrastructure, and a failure to meet demand – resulting in severely constrained access to critical mental health care and addiction treatment services in Victoria.[10]

[8] Ibid.

[9] Mental Health Victoria and the Mental Health Legal Centre, Submission to the Royal Commission into Victoria's Mental Health System (July 2019)

[10] [2.5] 8.

The LIV emphasises the importance of these services from a rehabilitative perspective: a person's ability to access services addressing the root cause of their offending is fundamental to their rehabilitation.

This problem of underinvestment is especially critical in rural and regional areas, where LIV members report that access to services is sparse and often limited by overwhelmingly long waitlists, which can be reportedly up to 9 months. This likely contributes to their inconsistent deployment across the state: 75% of cases with recorded deferrals between 2012 and 2020 were sentenced in the Greater Melbourne area.[11] (This may also be partly due to the fact that sentencing deferrals usually require the same Magistrate to preside over the matter continuously, which is infeasible in satellite courts).

If sentence deferrals are to be capable of fulfilling their rehabilitative potential, a diverse range of rehabilitative services needs to be available to those who need it when they need it across the state. This will require urgent long-term, large-scale investment into Victoria's mental health care system and broader rehabilitative treatment service sector, with an emphasis on community-based care and equity of access in rural and regional areas.[12]

Inadequate legal aid funding

A fourth barrier is inadequate legal aid funding for adjournments, as acknowledged in the Consultation Paper. Currently, legal aid funding does not cover a lawyer's costs in pursuing deferred sentencing on behalf of their clients. It follows that the practical effect of inadequate funding is that private lawyers will consider whether they can afford to appear gratis at a sentence deferral hearing for their client. If they cannot, then sentence deferral may not be a

[11] Ibid, [2.4] 6.

[12] See Mental Health Victoria and Victorian Healthcare Association, Joint Submission to the Royal Commission into Victoria's Mental Health System (July 2019), 5.

viable option for the client. The LIV submits that legal aid funding rates **must** be increased to ensure lawyers can perform this vital work for legal aid clients.

Client resistance

A fifth barrier reported by LIV members is that clients can be resistant to paying a subsequent day fee for their lawyer to attend court for a deferral hearing when a matter could be resolved in a single appearance.

3. Are there any issues with the current criteria and considerations courts must take into account before ordering a sentence deferral?

The LIV makes a number of recommendations for changes to the current criteria and considerations for courts before ordering a sentence deferral.

First, the LIV considers the eligibility criteria in section 83A(1)(b), which requires the court to be of the opinion that the deferral would be in the interests of the offender for a sentence deferral order to be made, to be unduly limited. The LIV is of the view that the question of whether it is appropriate to defer a person's sentence should involve consideration of broader interests than just those of the offender; the interests of the offender's family, of victims, and/or their families (if any), and of the broader community, are all relevant and equally important factors that warrant consideration.

The LIV notes that the eligibility criteria in section 83A(1)(b) is relatively anomalous in the adult jurisdiction, which is likely due to the legislative history of the section. Section 83A was first introduced in 1999 to extend the power to defer sentencing to offenders aged 25 and under in the Magistrates Court, where previously the power existed only in relation to children and young people under section 190 the *Children and Young Persons Act 1989* (Vic).[13] In drafting the new

[13] Victoria, *Parliamentary Debates,* Legislative Assembly, 25 March 1999, 193 (Second Reading Speech by Attorney-General Wade): 'Deferred sentencing has been available as a sentencing tool in the Children's

section 83A, section 190 of the *Children and Young Persons Act 1989* (Vic) was very closely copied, including with respect to section 83A(1)(b), which mirrors section 190's eligibility criteria.

When section 83A was drafted, it may have been considered appropriate to apply the same eligibility criteria to sentence deferrals under the Sentencing Act and the *Children and Young Persons Act 1989* (Vic) as both dealt with young people, and the interests of young people may be considered to warrant an unusually high degree of regard due to the rehabilitative potential for younger offenders.

Over the years, the power to defer sentencing under the Sentencing Act has expanded such that it is no longer confined to offenders under the age of 25 or to the Magistrates Court. However, the eligibility criteria in section 83A(1)(b) have remained unchanged.

In circumstances where the power to make a deferral order now exists in relation to offenders of all ages, the LIV submits that it is inappropriate that 83A(1)(b) requires the court to decide whether to make a sentence deferral order with reference only to the interests of the offender. Rather, the LIV submits that section 83A(1) should be amended to replace 'in the interests of the offender' with 'in the interests of justice'. Suggested wording follows:

> *If the Magistrates' Court or County Court finds a person guilty of an offence and*
>
> > *(b) the court is of the opinion that sentencing should, in the interests of justice, be deferred; and*
> >
> > *(c) the offender agrees to a deferral of sentencing—*
>
> *the court may defer sentencing the offender for a period not exceeding 12 months.*

Alternatively, the LIV would support amending section 83A(1) to read:

Court since 1991 … This bill will extend the availability of deferred sentencing into the Magistrates Court for cases involving offenders up to 25 years of age.'

If the Magistrates' Court or County Court finds a person guilty of an offence and

(b) if the offender is aged 26 or over, the court is of the opinion that sentencing should, in the interests of justice, be deferred; or

(c) if the offender is aged 25 or under, the court is of the opinion that sentencing should, in the interests of the offender, be deferred; and

(d) the offender agrees to a deferral of sentencing—

the court may defer sentencing the offender for a period not exceeding 12 months.

Secondly, recognising the special detrimental effect that incarceration has upon certain groups, LIV members have suggested that section 83A be amended to include a list of factors the court should consider in forming its opinion under section 83A(1)(b), whether that opinion be in reference to the interests of the offender or the interests of justice. The factors could direct judicial officers to consider whether the offender is a member of a specific vulnerable group, including Aboriginal and Torres Strait Islanders, women, and parents/guardians of dependent children, in forming their opinion as to whether a deferral would be in their best interest, considering the special disadvantage for members of those groups arsing from incarceration.

The LIV cautions that any such list should not be so prescriptive that it would unduly restrict judicial officers from exercising their discretion to defer a sentence or to not defer a sentence in appropriate cases.

This proposal is discussed further below in response to Question 4, below.

4. Are there reforms that could be made to sentence deferrals that could reduce the disproportionate effect of the criminal justice system on marginalised groups?

The LIV submits that reforms are needed to reduce the disproportionate effect that the criminal justice system has on marginalised groups.

In particular, the LIV considers that reform is needed to target the overrepresentation of Aboriginal and Torres Strait Islander people in the Victorian criminal justice system.[14] In this regard, the LIV notes that Aboriginal young people are about six times more likely to be detained than their non-Aboriginal peers,[15] and that Aboriginal women are about 22 times,[16] and Aboriginal men around 15 times,[17] more likely to be in prison when compared with non-Aboriginal populations.

To effectively address this overrepresentation, it is important to acknowledge that the overrepresentation of First Nations people in the criminal justice systems is partly caused by systemic racism and unconscious bias in the application of the law.[18] To be effective, reforms need to target those issues. The LIV submits that systemic racism and unconscious bias could be targeted by requiring the court to consider whether an offender is an Aboriginal and/or Torres Strait Islander person in forming its opinion as to whether a deferral is appropriate, as discussed above in response to Question 3.

Funding for culturally safe rehabilitative services is also a much-needed reform in Victoria. The LIV considers it critically important that the Victorian Government commit to providing all First Nations people, regardless of their location and socio-economic status, with access to a broad range of culturally safe, appropriate support services.

Inadequate funding for such services across the state is limiting the ability of Aboriginal and Torres Strait Islanders to access, in a timely manner, treatment that is critical to their rehabilitation. This problem is especially acute in rural areas: LIV members report serious

[14] Sentencing Advisory Council, 'Victoria's Indigenous Imprisonment Rates' (Web Page) <https://www.sentencingcouncil.vic.gov.au/sentencing-statistics/victorias-indigenous-imprisonment-rates>.

[15] Department of Premier and Cabinet, Victorian Government, *Victorian Government Aboriginal Affairs Report 2021* (Report, September 2022) 100.

[16] Ibid, 104.

[17] Ibid, 107.

[18] Ibid, 98.

limitations in service delivery and capacity across the state, including an inability to access general practitioners for the purpose of obtaining a mental health care plan and a lack of availability of accessible addiction support services.

Another equally important measure is to extend the Koori Court across the state.

A second vulnerable group that the LIV considers criminal justice reforms are required to support includes women, pregnant offenders, and offenders with dependent children. As noted in the Consultation Paper, women appear to be less likely to receive a sentence deferral, and the offending behaviour of women is more likely to be rooted in prior victimisation,[19] which heightens the importance of their access to rehabilitative treatment to address underlying causes of criminal behaviour. They are also more likely to have primary caring responsibilities, meaning that their incarceration will have higher costs for themselves, their children, the community, and the state. This is especially true for offenders who are pregnant or breastfeeding.

Incarceration is especially detrimental for these groups because it risks failing to effectively treat root causes of offending while simultaneously creating trauma through family separation. Incarceration also increases social marginalisation, reduces employment opportunities, and for parents, increases the likelihood of intergenerational patterns of imprisonment.[20]

The LIV therefore considers it important that the negative impacts of incarceration on women, pregnant offenders, and those with dependent children are mitigated as much as possible.

The LIV submits that this could be achieved by the outlined in the LIV's response to Question 3, to amend section 83A to include a list of factors the court should consider when deciding whether a deferral is appropriate. The list could require the court to consider:

[19] Sentencing Advisory Council, *Reforming Sentence Deferrals in Victoria: Consultation Paper* (Consultation Paper, October 2022) [2.5] 6.

[20] Closing the Gap Clearinghouse, *Diverting Indigenous offenders from the criminal justice system* (Resource sheet no. 24, December 2013) 5.

(a) whether the offender is a woman, noting that women appear to be less likely to receive a sentence deferral and that the offending behaviour of women is more likely to be rooted in prior victimisation;

(b) whether the offender is pregnant or breastfeeding; and

(c) whether the offender is a primary caregiver.

5. Should the current legislative purposes of sentence deferrals in section 83A(1A) of the Sentencing Act 1991 (Vic) be amended? If so, what changes would you recommend, and why?

The LIV is of the view that the current legislative purposes of sentence deferrals in section 83A(1A) of the Sentencing Act 1991 (Vic) do not need to be amended.

6. Should there be any changes to the maximum length of 12 months for sentence deferral in the Magistrates' Court and/or in the County Court? If so, what changes would you propose, and why?

The LIV considers the question of whether there should be any changes to the maximum sentence length for sentence deferrals to be complex.

On one hand, ensuring that people are kept in the justice system for no longer than is strictly necessary is important to minimise the criminogenic impact that interaction with the criminal justice system engenders.

On the other hand, certain offenders may have complex needs that require longer than 12 months to address, or delays in service provision that may result in an offender's period of engagement being reduced, or extended periods of time may be needed due to relapse(s). In such circumstances, an elongated deferral period may be in the best interests of the offender.

LIV members have suggested that a potential solution could be to increase the maximum length of a sentence deferral to a period of up to 18 months in exceptional circumstances to allow those who may need more time to engage with rehabilitative services to do so.

7. Should section 83A of the Sentencing Act be amended to allow conditions to be attached to deferral orders?

The LIV is of the view that section 83A of the Sentencing Act should be amended to allow conditions to be attached to a deferral order.

The LIV notes that under the current system, conditions must be made as conditions of bail, or informally by court direction.

The LIV does not support deferral conditions being made as conditions of bail because the rehabilitative purpose underlying sentence deferrals sits uneasily with the consequences of violating bail conditions, which are punitive. The LIV considers that using bail conditions as a vehicle to impose deferral conditions is also likely to undermine prospects of long-term rehabilitation as setbacks can be punished harshly.

The LIV does not necessarily oppose deferral conditions being made informally by court direction, but it is of the view that doing so may be confusing for offenders. Court hearings can be intimidating and overwhelming, and anything less than a clearly formulated, recorded set of conditions creates the potential for misapprehensions or miscommunications.

For these reasons, the LIV would support amending section 83A to allow conditions to be attached to deferral orders, provided that compliance with deferral conditions is prohibited from being a condition of bail.

8. Is there scope to increase or improve the use of judicial monitoring during sentence deferrals?

As noted in the Consultation Paper, judicial monitoring can be very beneficial for some offenders. For those who need it, it can support them to hold themselves accountable to meeting the conditions of their deferral. However, LIV members report that for some, judicial monitoring can feel overbearing and potentially counterproductive.

For this reason, the LIV submits that the use of judicial monitoring should be deployed in exceptional circumstances and where it will not jeopardise the rehabilitation of the offender. It should be guided by a clear framework setting out the circumstances in which judicial monitoring is appropriate, that outlines what good judicial monitoring looks like, and that explains how detrimental overbearing judicial monitoring can be. Mandatory training should also be provided to judicial officers on the same topics.

9. Should justice plans be made available as a condition of sentence deferral?

The LIV submits that justice plans should not be made available as a condition of a sentence deferral as it sees no obvious benefit in doing so. In fact, LIV members are of the view that doing so could hinder access to rehabilitative services as there is currently a 12-week delay in obtaining a justice plan, a significant portion of time that an offender could be engaging with rehabilitative services.

10. Are there any improvements that could be made to the availability of support services and programs for people whose sentence has been deferred?

As discussed in response to Question 2, the LIV submits that improvements are needed in respect of the availability of support services and programs for people whose sentence has been deferred.

The LIV considers that a significant increase in funding needs to be provided to rehabilitative service providers so that services can be made available to those who need it when they need it. Wait lists for rehabilitative services can sometimes be months long, undermining offenders' prospects of rehabilitation.

Access to services in rural and remote areas is especially urgently required, as is better access to residential rehabilitative services.

The state also needs to invest in supporting a broader range of rehabilitative services to treat less common or less easily treated behavioural issues, and to extend services to cohorts that are currently underserviced. With respect to Aboriginal and Torres Strait Islanders, there is a particularly critical need for access to culturally safe services across the state.

11. Should offenders receive a written deferral plan outlining what they have agreed to do during the deferral period, and the potential consequences of not engaging positively with those requirements?

The LIV submits that offenders should be provided with a written deferral plan outlining what they have agreed to do. The LIV considers that such plans will help people to understand what is expected of them. However, LIV members have cautioned that including details about the potential consequences of non-compliance may, in effect, translate into a threat of punishment if an offender is not compliant, which may undermine the rehabilitative purpose of deferrals.

12. Should courts be expressly permitted or required to tell the offender the sentence that they can expect if they successfully engage with the deferral?

The question of whether courts should be expressly permitted or required to tell the offender the sentence that they can expect if they successfully engage with the deferral is complicated.

On the one hand, the LIV acknowledges that informing an offender that they will receive a more lenient sentence if they adhere to conditions of a deferred sentence may encourage compliance.

On the other hand, it may set unrealistic expectations in the minds of offenders who only partially comply, or it may function to bind judicial officers to a sentence that may turn out to be inappropriate.

On balance, therefore, the LIV supports allowing judicial officers to exercise their discretion to tell offenders, in broad terms, the sentence they *may* receive if they successfully engage with the deferral. This power should be limited such that judicial officers should only be permitted to provide the offender with a broad sentence range to manage expectations. The sentencing remarks should also be accompanied by a warning that the sentence indication does not mean the judicial officer is required to hand down a sentence within the sentence range even where the conditions of the deferral are complied with, to prevent judicial officers from feeling bound by sentence indications that are no longer appropriate.

13. To what extent should the requirements imposed on an offender during a sentence deferral be taken into account at sentencing?

The LIV considers that the extent to which a person complies with the conditions attached to the deferral of their sentencing should be reflected in mitigation in sentencing. Compliance with rehabilitative conditions, some of which may be quite onerous, is suggestive of genuine remorse and/or an intention to address problematic behaviour, and this should be recognised by the court.

14. If an offender has engaged positively with the conditions of their deferral, should rehabilitation become the primary purpose of sentencing?

The LIV submits that rehabilitation should not become the primary purpose of sentencing in instances where an offender has engaged positively with the conditions of their deferred sentence.

The LIV considers that doing so would be inappropriate and counterproductive to established sentencing principles. Facts of individual cases vary widely, and there should not be a one size fits all approach to sentencing. Judicial officers are best placed to consider all relevant matters

under the instinctive sentencing synthesis in order to determine a suitable sentence in light of whatever sentencing purpose is most relevant, be that just punishment, denunciation, deterrence, or rehabilitation. The LIV further notes that positive compliance is already a factor that the Court will take into account and to which it will attribute weight under existing sentencing principles.

Further comments

The LIV would like to raise a further matter not elicited by the Consultation Paper but which it considers important: the need for research on Victoria's rehabilitative treatment services.

The LIV notes that there appears to be little, if any, available research on the efficacy of Victorian rehabilitative treatment services and programmes in the context of sentence deferrals.

It is critical that such research is carried out as the rehabilitative potential of sentence deferrals depends on the capacity of rehabilitative treatment services to effectively treat the causes of criminal behaviour. Research from other jurisdictions suggests that rehabilitative treatment programs are effective *only* when the right treatment program is delivered to the right person: if a particular treatment program is not suited to a person, it can be harmful. For example, a study of Western Australian prisoners released in 2008/09 and 2009/10 found that those who had completed a rehabilitative program were more likely to return to prison within two years than those who did not complete a program.[21]

An evaluation of Victoria's rehabilitative treatment services in the context of sentence deferrals is thus needed to inform the design of effective, appropriate policy moving forward.

The LIV would welcome further engagement with the Sentencing Advisory Council should it wish to discuss any matter in this submission.

[21] Office of the Custodial Inspector of Western Australia, 'Report into the Review of Assessment and Classification within the Department of Corrective Services' (Report No. 51, 3 June 2008), iii.

Should you wish to discuss anything further, please contact Sinéad O'Brien Butler, Section Lead and Lawyer for the LIV Criminal Law Section by email to sobrienbutler@liv.asn.au.

Yours sincerely,

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