

4 November 2025

Our ref: [LP:MC]

Commissioner
Office of the Victims' Commissioner
Level 7, 63 George Street
Brisbane City QLD 4000

By email: [REDACTED]

Dear Commissioner,

Charter of Victims' Rights Review

Thank you for inviting the Queensland Law Society (**Society**) to participate in the Charter of Victims' Right (**Charter**) Review.

The Society welcomes the opportunity to comment on issues raised in the detailed Issues Paper (**Paper**). This submission is not an exhaustive response to all of the issues and questions raised but is intended to collate the views of the Society and members of its Human Rights and Public Law and Domestic and Family Violence Committees on aspects of the Paper.

The review of the Charter is an important undertaking. We preface this submission by emphasising that careful and detailed consideration of the criminal justice system itself must accompany the review of the matters set out in the Paper.

The Paper rightly acknowledges the Charter sits within a complex web of other legislative frameworks. Although the Charter defines the rights that '*prescribed persons*' must uphold, the challenges victims face often stem from the operationalisation and practical interaction between agencies. Critically, victims should not be expected to ensure that different parts of the justice system collaborate effectively. While other legislation governs the implementation of several victims' rights and considerations (such as the *Human Rights Act 2019* and *Penalties and Sentences Act 1992*) the failure to uphold rights is frequently a result of system delivery rather than a deficiency in the codified rights themselves.

It is also important to acknowledge recent and major reforms that have already been implemented in Queensland to reduce the trauma and distress of giving evidence in criminal trials for vulnerable victims, particularly for children and cognitively impaired persons, and for complainants in sexual offence and family violence cases. These reforms, together with the drive for cultural change that has accompanied them, are transforming the way criminal trials are conducted in Queensland.

It is the Society's position the Charter broadly codifies the key rights, services and remedies essential for victims navigating the criminal justice system. The current framework covers essential phases of a victim's journey, making the codified substance appropriate for its intended function.

Observations from the Disability Royal Commission

Systematic issues identified by bodies such as the Disability Royal Commission (**DRC**) demonstrates core Charter rights regarding respect and dignity are routinely breached when agencies interact with vulnerable cohorts.

The DRC Final Report stresses the importance of providing information in accessible formats to ensure meaningful engagement and participation for people with disability. The DRC also found that people with disability routinely face barriers when interacting with police, including being dismissed or not being believed. We note the Office of the Victims' Commissioner's recent evaluation highlights that the Queensland Police Service (**QPS**) is the agency associated with the largest proportion of complaints received by the Commissioner. In the period from 2 September 2024 to 30 April 2025, 33.3% of submissions were associated with the QPS.¹ The high volume of complaints aligns with the severe systemic issues reported to the DRC. The high association of complaints with QPS underscores the urgent need for improvements in the dignity, choice and control offered to victims.

Culturally safe approaches and self-determination

The *Victims' Commissioner Sexual Violence Review Board Act 2024* explicitly recognises the vulnerability of specific cohorts. For these groups, the rights are only meaningful if they are delivered through culturally appropriate systems and organisations. The necessity of embedding self-determination and cultural safety in the Charter is critical, as law enforcement agencies, in other contexts, have been criticised for inadequate training in cultural safety and systemic issues leading to the mistreat or disregard of Aboriginal victims. Effective adherence to the Charter must acknowledge and address these systemic barriers.

The interpretation of the right to be informed must incorporate the understanding that information provided needs to be delivered in a culturally safe way. This is especially crucial where victims feel that the system has made things worse, reinforcing trauma. Victims from culturally diverse backgrounds and First Nations women are at particular risk of being misunderstood due to a lack of culturally safe capability.² The Charter includes the right for a victim to be informed at the earliest practicable opportunity about services and remedies available to them. True delivery of this right requires that the victim has agency, choice and control. This aligns directly with the principle of self-determination, ensuring that victims can choose culturally appropriate pathways and access support designed and led by Aboriginal Community Controlled Organisations (**ACCOs**), rather than solely relying on prosecutorial pathways.

Promoting awareness of the Charter

Our members observe an increase in victims seeking out legal assistance for the purpose of navigating the criminal justice system. For instance, members of the Society's Domestic and Family Law Committee have observed an increase in the number of victims of domestic and family violence engaging private legal representation to assist them as a complainant or as their legal representative in response to police applications for a domestic and family violence protection order (as opposed to a private application where it would be more expected that an aggrieved person who engage private representation). In these instances, the victim/aggrieved person is not a party to a proceeding and legal representation should be unnecessary.

In these instances, the main reason victims are seeking out legal assistance, which can be particularly costly, appears to be a lack of communication from the prosecuting body with the complainant. Accordingly, further community education and promotion of the Charter to those with statutory obligations is essential to ensure a clear understanding of their responsibilities when engaging with victims. By improving knowledge and compliance with the Charter, the need for victims to seek private legal representation to assert their rights can be significantly reduced.

Issue Paper Issues/Questions

Victims' rights in relation to investigations and prosecutions [Q22, 37, 39 and 41]

Q22 Should victims have a right to be consulted about certain decisions, or their views to be obtained? If so, what kind of decisions should this apply to?

¹ <https://documents.parliament.qld.gov.au/com/JICSC-CD82/OOVC-6AFB/TabledDocVictimsCommissioner250521.pdf>

² Women's Safety Justice Taskforce Hear Her Voice Report Two

The Charter provides a statutory platform to guide victims' engagement in the criminal justice system and the distinctive requirement to be informed of case progress. However, we note the question about whether victims should have a right to be consulted about certain decisions contains an inference in relation to the role *consultation* plays in decision-making about the prosecution of criminal matters. In relation to a consultation process, inherent protections must remain in place to safeguard the judicial system and to ensure key principles of justice are upheld including that decisions should be based on objective evidence. Therefore, while pursuing meaningful participation and engagement, it is the Society's view victims' rights should not encroach on the independence in decision-making processes by prosecutors and any consultation does not prejudice to the rights of the accused.

Q37 Should the Charter of Victims' Rights reflect the ODPP's right to review policy? If yes/no, why?

No.

The rights outlined in the Charter are fundamentally based on the principle of ensuring victims are informed, essentially mandating that criminal justice agencies must pay due consideration to providing victims with the information they need throughout their case. This foundational principle places an inherent obligation on prescribed persons, primarily the QPS and ODPP, to enhance their processes and systems to delivery timely and accurate updates.

We acknowledge that the ODPP has implemented a Victims Right to Review (**VRR**) policy on 3 February 2025, allowing victims to request a review of decisions to discontinue all charges against a defendant. This initiative supports victims' rights to challenge decisions that directly impact them. However, while the VRR policy is sound, it inadvertently presents challenges in terms of progressing and resolving certain restorative justice pathways, such as adult restorative justice conferencing and private restorative mediation. Conflicts can arise when agencies favor traditional prosecution over restorative justice options desired by the victim, potentially undermining the victim-centered recovery and empowerment that restorative justice provides.

To mitigate this friction and support alternative justice mechanisms, policies governing review rights should ideally exclude the review of successfully completed restorative justice conferencing. This would safeguard the finality and integrity of victims' decisions to participate in and conclude a matter via a restorative justice pathway. Instead of focusing on review rights, it is our view the Charter should enhance the existing right for victims to be informed about restorative justice options. This approach better aligns with the goal of providing dignity, choice and control, ensuring victims receive comprehensive information on availability alternative justice pathways, so they can make informed choices that best is in their best interests.

Q39 Should the Charter of Victims' Rights contain a right to request the ODPP consider an appeal? If yes/no, why?

No.

Interaction with other legislative frameworks [Q50, 51]

Q50 Are there any additional issues that arise from the interaction between the *Human Rights Act 2019* and the Charter of Victims' Rights?

The interaction between the Human Rights Act 2019 (Qld) (**HRA**) and the Charter highlights the necessity of approaching the review from the perspective that rights are interdependent and complementary, rather than competing. This review is specifically committed to strengthening victims' rights while ensuring their compatibility with the HRA. A foundational step suggested to achieve this coherent relationship is to expressly reference key HRA provisions in the Charter, thereby embedding the HRA's interpretive framework and making abundantly clear that prescribed persons must act compatibly with human rights when engaging with victims. Several Charter rights already demonstrate the overlap; for example the right to be treated with courtesy, compassion, respect and dignity aligns with the HRA's protection from

cruel, inhuman or degrading treatment, and the right to privacy and protection of personal information aligns with the HRA's right to privacy and reputation.

The Charter can achieve better alignment with human rights obligations in the HRA by including broader guiding principles that articulate the human rights foundations of victim protection, thereby strengthening consistency with the HRA and international law. To embed the interpretative framework of the HRA, we also suggest express recognition in the Charter of ensuring that victims are engaged in a way that upholds their cultural rights and right to self-determination.

The added benefit of expressly acknowledging the importance of engaging victims in a cultural safe and self-determinative way is crucial to operationalising this human rights mandate, particularly for Aboriginal and Torres Strait Islander people who are over-represented as victims of crime yet under-represented as recipients of support services. The failure to integrate these specific rights and principles means mistreatment continues, often stemming from systemic racism, poorly designed policy frameworks and inadequate training in trauma-informed and culturally safe care. This direct acknowledgement will also go some way to ensure that the type of support provided, such as access to medical and social assistance, is holistic and appropriate, especially when delivered by ACCOs. Practically, this means supporting and enhancing alternative, culturally safe pathways for reporting crimes and receiving assistance (such as alternative first responders to police, designed and led by ACCOs), thus overcoming deep-seated mistrust in justice systems rooted in repetitive negative experiences like being disbelieved or dismissed by services systems.

Q55 Are there any additional issues that arise from the interaction between the *Penalties and Sentences Act 1992* and the *Charter of Victims' Rights*?

Recent amendments to the *Penalties and Sentences Act 1991* give primacy to the impact of victims in sentencing, this is a fundamental change to sentencing practice in this state. The impact on victims has always held a place in the consideration of the court. The consistent position of the Society is judicial discretion is paramount.

Thank you for considering this feedback. If you have any questions relating to this submission, or if we can be of any further assistance, please do not hesitate to contact our Legal Policy team via policy@qls.com.au or by phone on (07) 3842 5930

Yours faithfully

Genevieve Dee
President