

2 April 2026

[LP:MC]

Office of the Victims' Commissioner
GPO Box 149
Brisbane QLD 4001

By email: [REDACTED]

Dear Commissioner

Stage 2 Consultation – Charter of Victims' Rights review

Queensland Law Society (**the Society**) welcomes the opportunity to provide a submission on stage 2 of the Commission's review of the Charter of Victims' Rights (**the Charter**) and appreciates the additional time to submit feedback.

This submission draws on the experience of the Society's Human Rights and Public Law Committee and Domestic and Family Violence Committee.

This review occurs at a moment of significant legislative, policy and cultural change across the criminal justice system in Queensland. Consistent with the terms of reference, our comments below consider primarily how recent reforms, legal stakeholder developments, the human rights legislative framework and systemic data can inform the review of the Charter. In brief, the Society considers that the current drafting and scope of the rights contained in the Charter are appropriate.

As highlighted in the Commission's detailed stage 2 paper, recent reforms arising from the Women's Safety Justice Taskforce (**WSJT**) and developments in youth justice provide essential context for assessing whether the Charter's purpose, scope and operation are fit for purpose.

The review of the Charter should be informed not only by state-based developments but also the national reform trajectory set out in the Australian Law Reform Commission's (**ALRC**) landmark report *Safe, Informed, Supported*. The ALRC's recent work provides contemporary, evidence-based discussion relevant to elevating victims' rights within an adversarial system, and its analysis is directly relevant to the terms of reference concerning the Charter's scope and enforceability.

In Queensland's adversarial system, victims are not legal parties and prosecutors work on behalf of the State. We are aware this structural reality often leaves victims feeling invisible and excluded, an issue central to the Charter's purpose and awareness of it, is its role in deflating these misconceptions and advocating alternative means of support and standards of treatment throughout the criminal justice process. In this regard, the ALRC emphasised in its report *Safe, Informed, Supported*, that promoting victims' rights, such as safety, dignity and privacy, does not require compromising the presumption of innocence, the right to silence or the standard of

proof. It is important to reinforce that victims' rights and these other rights are not mutually exclusive.

Changes to the criminal law landscape

With respect to youth justice reforms, reforms such as the *Making Queensland Safer Act 2024* (Qld) (**Act**) have streamlined the victims register through an 'opt-out' model, reducing administrative burdens on victims during times of crisis. The Act also includes amendments to youth justice sentencing principles to require courts to make the impact of an offence on a victim their main consideration when sentencing children. These developments are significant examples of the broader policy shift toward proactive, rather than reactive, victim acknowledgement and support.

Another recent statutory development is the passage of the *Penalties and Sentences (Sexual Offences) and Other Legislation Amendment Bill 2024* which introduced important reforms to the use of good character evidence in sentencing for sexual offences and amendments to ensure that no negative inference can be drawn if a victim chooses not to provide a victim impact statement during sentencing. These reforms respond to longstanding reforms, raised by both the WSJT and ALRC regarding the use of good character evidence.

Interaction of the Charter and the Human Rights Act (2019) Qld

We consider that the review of the Charter must begin by recognising that its interaction with the *Human Rights Act (2019) Qld* (**HRA**) does not create a competition between victims' rights and the rights of accused persons but instead requires a principled framework in which both sets of rights can operate coherently within the criminal justice system.

Victims and defendants are not dichotomous. The review of the Charter must move beyond a binary dichotomy between victims and defendants, recognising that many individuals within the criminal justice system as accused people carry significant histories of prior victimisation. The terms of reference for the review explicitly require regard for the diversity of victims, including those who have been accused, convicted or incarcerated, acknowledging that a strictly dichotomous approach only serves to lessen the protections available to victims who happen to offend.

This nuanced perspective is essential under the HRA which provides a universal statutory framework applying to all people, thereby encompassing and providing the foundational basis for the specific procedural based rights articulated in the Charter. Ultimately, the Charter acts as a vital procedural overlay in many respects for the application of human rights in the criminal justice context, ensuring that victims are treated with dignity through the investigation, prosecution and sentencing phases of the justice system.

Accountability and awareness

In our view, the Charter is shaping changes that demonstrate a positive impact on legal discourse and decision-making. Recent initiatives by frontline justice agencies demonstrate progress that the review should acknowledge and build upon. Initiatives such as the introduction of sexual violence liaison officers and trials of electronically recorded statements in domestic violence matters reflect a commitment to trauma-informed, victim-centered practice. These initiatives directly address longstanding concerns about accessibility, treatment and trauma of repeated retelling.

Another tangible example of the Charter's application is the ODPP's new Victims' Portal and the recently implemented ODPP Victims' Right to Review Policy that provides a structured mechanism for seeking reasons and reviews of decisions to discontinue criminal charges and is an important development in accountability and procedural clarity.

Innovative initiatives

The detailed paper does not expressly refer to restorative justice. In our members' experiences, restorative justice initiatives now play an increasingly important role in the criminal justice system and are a central means of empowering victims and meaningfully redressing the impact of crime on victims.

Earlier this year, the government announced that high-risk referrals will no longer be accepted for the Adult Restorative Justice Conferencing program.

The decision to discontinue high risk referrals raises significant concerns, particularly in light of recommendations 90 and 91 of *Hear Her Voice Report Two* which support the use of restorative justice in high-risk matters, including those involving sexual offending and domestic violence.

The expanded model has demonstrated clear benefits in these contexts, offering a more responsive and person-centered approach than traditional sentencing mechanisms. Retaining this expanding would help ensure that restorative justice remains a safe, effective and meaningful option for those impacted by serious harm.

Restorative justice options form part of the criminal justice system and as such we wish to highlight the potential for restorative justice responses to improve the experience of victims and its importance as a means of exercising victims' rights. In our view, a review of this nature should include consideration of restorative justice and the opportunities it may present for improving the experience of victims involved in the criminal justice system.

If you have any queries regarding the contents of this letter, please do not hesitate to contact our Legal Policy team via policy@qls.com.au or by phone on [REDACTED] [REDACTED]

Yours faithfully



Peter Jolly
President