



COMMUNITY SAFETY AND LEGAL AFFAIRS COMMITTEE

Members present:

Mr PS Russo MP—Chair
Mr MA Boothman MP
Mr SSJ Andrew MP (virtual)
Ms JM Bush MP
Mr JE Hunt MP (virtual)
Mr JM Krause MP (virtual)

Staff present:

Ms M Westcott—Committee Secretary
Mr R Pelenyi—Assistant Committee Secretary

PUBLIC BRIEFING—INQUIRY INTO THE VICTIMS' COMMISSIONER AND SEXUAL VIOLENCE REVIEW BOARD BILL 2024

TRANSCRIPT OF PROCEEDINGS

Monday, 25 March 2024

Brisbane

MONDAY, 25 MARCH 2024

The committee met at 1.01 pm.

CHAIR: Good afternoon, everybody. I declare open this public briefing for the committee's inquiry into the Victims' Commissioner and Sexual Violence Review Board Bill 2024. My name is Peter Russo. I am the member for Toohey and chair of the committee. I would like to respectfully acknowledge the traditional custodians of the land on which we meet today and pay our respects to elders past and present. We are very fortunate to live in a country with two of the oldest continuing cultures in Aboriginal and Torres Strait Islander peoples whose lands, winds and waters we all share. With me here today are: Mark Boothman, member for Theodore and deputy chair; Stephen Andrew, member for Mirani; Jonty Bush, member for Cooper; Jason Hunt, member for Caloundra; and Jon Krause, member for Scenic Rim.

The hearing is a proceeding of the Queensland parliament and is subject to the parliament's standing rules and orders. Only the committee and invited witnesses may participate in the proceedings. Witnesses are not required to give evidence under oath or affirmation, but I remind witnesses that intentionally misleading the committee is a serious offence. I also remind members of the public that they may be excluded from the hearing at the discretion of the committee. These proceedings are being recorded and broadcast live on the parliament's website. Media may be present and are subject to the committee's media rules and my direction at all times. You may be filmed or photographed during the proceedings and images may also appear on the parliament's website or social media pages. I ask if you could kindly either turn your mobile phones off or to silent mode.

BANDARANAIKE, Ms Sakitha, Director, Strategic Policy and Legislation, Department of Justice and Attorney-General

COCETTI, Mr Michael, Principal Legal Officer, Strategic Policy and Legislation, Department of Justice and Attorney-General

ROBERTSON, Mrs Leanne, Assistant Director-General, Strategic Policy and Legal Services, Department of Justice and Attorney-General

YOUNG, Ms Madeline, Senior Legal Officer, Strategic Policy and Legislation, Department of Justice and Attorney-General

CHAIR: I now welcome representatives from the Department of Justice and Attorney-General. Over to you for your briefing.

Mrs Robertson: Thank you for the opportunity to brief the committee regarding the Victims' Commissioner and Sexual Violence Review Board Bill 2024. I too would like to acknowledge the traditional owners of the respective lands on which we gather this afternoon and to pay my respects to elders past, present and emerging.

The committee will recall that in July 2022 the Women's Safety and Justice Taskforce released its second and final report, *Hear her voice: report 2—Women and girls' experience in the criminal justice system*, which recommended the establishment of a Victims' Commissioner and Sexual Violence Case Review Board in Queensland. The independent Commission of Inquiry into Queensland Police Service responses to domestic and family violence also made a recommendation supporting the establishment of a Victims' Commissioner in Queensland.

In November 2022 the government published its response to the taskforce report. The government's response supported the recommendations to establish the Victims' Commissioner and the board in principle and committed to the further development of the proposed models. In the bill, as you know, the bill establishes the Victims' Commissioner. The Victims' Commissioner will be an independent statutory appointment by the Governor in Council for a period of no more than five years, with its purpose to promote and to protect victims' rights. The bill requires that the Victims' Commissioner must act independently and in the public interest and will not be subject to direction by any person, including the minister. This will empower the Victims' Commissioner to perform their functions independently and in a way that they consider to be the most effective to achieve their objectives.

The Victims' Commissioner will have wideranging functions including to: identify and review systemic issues relating to victims; deal with complaints about alleged contraventions of the Charter of Victims' Rights; provide advice to the Attorney-General as the responsible minister on issues affecting victims and the promotion of victims' rights, including making recommendations about improvements to government policy, practices, procedures and systems to support the rights of victims; and to monitor the implementation of any recommendations made.

Whilst the taskforce focus was obviously on domestic, family and sexual violence, the functions of the Victims' Commissioner, with the exception of the complaint function, will be carried out on behalf of all victims of crime, including victims of property crime and other non-violent crimes. This will enable the Victims' Commissioner to promote and protect the rights of all victims of crime, noting the Victims' Commissioner will have discretion as to how its functions are performed and can focus on particular cohorts of victims such as victims of domestic and family violence and other violent crimes. This is consistent with the approach that we understand is taken in other jurisdictions.

To support trauma informed, victim-centric and culturally appropriate engagement with victims, the bill requires the Victims' Commissioner to have specific regard to the vulnerability of particular cohorts of victims of crime, including victims of domestic, family or sexual violence; Aboriginal victims and Torres Strait Islander victims; and victims who have characteristics that make them particularly vulnerable to harm such as children, victims from a culturally or linguistically diverse background and victims with a disability and the elderly. As the Victims' Commissioner has a systemic focus, it is intended that the Victims' Commissioner will not provide frontline support to victims of crime.

Victims Assist Queensland will continue to administer the financial assistance scheme and will help victims of crime access information about supports available to them. The Victims' Commissioner will manage complaints made by an affected victim about alleged contraventions of the Charter of Victims' Rights. The bill therefore removes the charter from the current Victims of Crime Assistance Act and places it in chapter 3 of the bill. The bill outlines a framework to allow the Victims' Commissioner to accept and deal with complaints about alleged contraventions of the charter. This will ensure that complaints made by affected victims are managed in a transparent and accountable manner. The charter and the complaint function have a narrower application than the other functions of the Victims' Commissioner as the charter only applies to victims of crimes against the person and victims of domestic and family violence who have suffered physical, psychological or emotional harm.

The Women's Safety and Justice Taskforce recommended the Victims' Commissioner, once established, review the charter to consider whether additional rights should be recognised or existing rights expanded. Government supported in principle the recommendation and noted the Attorney-General will write to the Victims' Commissioner, once established, in support of the recommendation.

As members are aware, the bill also provides for the establishment of the Sexual Violence Review Board. The taskforce found that, while the rate of reported sexual assault cases has increased, data on sexual violence cases shows significant attrition during each stage of an investigation and prosecution of a sexual offence. To implement the taskforce's recommendation, the bill establishes the board with a main function to identify and review systemic issues relating to reporting, investigation and prosecution of sexual offences in Queensland. The board has functions to support its main function including to: review government policy, practices, procedures and systems to identify systemic issues; review and analyse data and information held by government entities and non-government entities; make recommendations to the minister, government entities and non-government entities about improvements to government policy, practices, procedures and systems arising out of a review; and also to monitor implementation of recommendations made by the board.

The board has a systemic focus and it is not intended that the board will review each individual sexual offence matter that does not progress. While the board will not conduct individual case reviews, it is anticipated that a review into a systemic issue may consider, for example, the progress of an investigation of an alleged sexual offence and with a further investigation prosecution of a person accused of committing the offence being affected by an act or omission during the investigation, or major decisions and reasons for the decisions about the charges brought against a person accused of committing an alleged sexual offence or not bringing such charges against the accused.

The board will be chaired by the Victims' Commissioner and comprise eight other government and non-government members to complement and inform its systemic focus. In addition to the four government members appointed by the board, there will also be four other community members appointed to the board who must have knowledge or experience in at least one of the following areas: professional expertise in the field of sexual offence matters; providing support services to victims of sexual violence; or lived experience as a victim of sexual violence. At least one member of the board

must be a person with lived experience as a victim of sexual violence and at least one member must be an Aboriginal person or Torres Strait Islander person. The minister must also ensure that the board's membership reflects the social, cultural and linguistic diversity of the Queensland community to ensure an appropriate mix of representatives are appointed to the board.

In closing, I note that the bill supports the implementation of recommendations 18, 46 and 181 of the taskforce report to protect and promote the rights of victims of crime generally and identify improvements that can be made to the criminal justice system to improve attrition rates for sexual offences. Chair, thank you again for the opportunity to brief the committee this afternoon and we are happy to take questions.

CHAIR: Thank you.

Mr BOOTHMAN: A couple of submitters today mentioned that the definition of 'victim' is too broad and should be narrowed. Do you care to comment on that?

Mr Coccetti: The intended scope of the 'victim' definition in section 6 is intended to be broad to allow for the legislative scope of the Victims' Commissioner to have quite a broad function. The reason is—and while we note that the taskforce report was focused on DFV and others—the findings in the report actually talked about the fact that the Victims' Commissioner in Queensland should protect rights on behalf of all victims of crime. On that particular basis, section 6 is drafted quite broadly and is not intended to limit the scope of the Victims' Commissioner. To go to some of the points made by members of the public today and the question around whether the legislative remit should be narrowed or whether operationally the Victims' Commissioner will then choose their scope, I point out that, while the Victims' Commissioner's scope legislatively is quite broad, that is not to limit the Victims' Commissioner's remit in exercising their systemic review functions or their consultation function. To give the member an example, if you start to constrain the 'victims' definition to, say, victims of violent crime, the Victims' Commissioner in exercising their scope may lead to adverse outcomes. For example, if we use violent offence as an example, if they were conducting a consultation it may very well be the case that the Victims' Commissioner would have to interview each individual to work out whether they would be within scope and whether they would be considered a victim of a violent offence.

We did not want the scope of the Victims' Commissioner to be prohibited or limited, or to lead to any adverse outcomes in the Victims' Commissioner's remit where they would have to interview somebody and say, 'Sorry, you don't fall within the category of a violent offence and therefore I'm not able to represent you.' It was taken as for the systematic review function, for the consultation function and for those broader functions to represent all victims of crime rather than narrowing it to a violent offence or things of that nature. We do acknowledge that recommendation 18 does talk to violent offence. In establishing a Victims' Commissioner for all victims of crime, this was the definition that we have used and it was intentionally broad.

I will just add that clause 11 also deals with the vulnerability component. We do acknowledge that there is a need to focus on those particular vulnerabilities with victims of domestic and family violence, First Nations victims and victims with particular characteristics of harm. You will see in clause 11(1)(c) that we talk about those who are 'particularly vulnerable to harm' being: women; children, and we note the public submissions from those around children this morning; and victims from a culturally or linguistically diverse background. You will see that all in 11(1)(c). It is an intentionally broad approach, noting that the Victims' Commissioner was to have regard to those particular cohorts that do have a vulnerability.

Mr BOOTHMAN: As a follow-up question, one of the concerns brought up by the Queensland Sexual Assault Network was that having a broad approach may stifle the ability to actually go through the information. Obviously, you would have a lot more individuals submitting information into the commission. Is there any way you can allay her fears?

Mr Coccetti: I think it is to that point you raised—that legislatively the scope is not trying to be prohibitive. Operationally, the Victims' Commissioner may very well choose to conduct an inquiry into that specific vulnerable cohort. There is nothing that would limit that from occurring. What the legislation is trying to avoid is obviously a legislative barrier to representing a particular cohort of victims, should it be the case that in three or five years time there is a new particular focus area. I acknowledge that it is not a DFV commissioner solely. In relation to the legislative scope, they are the reasons behind why it is drafted the way it is. Does that answer the question?

Mr BOOTHMAN: Yes.

Mr ANDREW: I asked questions earlier about the South Australian law, and you can probably speak to this better than anyone. There is a difference between the Queensland law we are introducing now and the South Australian law that gives the commissioner the right to exercise any right to which the victim is entitled, which is in section 32A of the Victims of Crime Act in South Australia. Could you expand on that please?

Mr Coccetti: I will explain the differences between the two models. The South Australian model involves some additional rights. In South Australia, there are legislated rights for victims. Section 10A of the Victims of Crime Act 2001 provides that—

- (1) A victim who is dissatisfied with a determination made in relation to the relevant criminal proceedings ... may request the prosecution to consider an appeal against the determination.
- (2) A request under this section must be made within 10 days after the making of the determination.
- (3) The prosecution must give due consideration ...

These types of rights effectively mean that a victim in South Australia can have a quasi-type party role, rather than a participant role, in relation to the influencing of decision-making. In that particular instance, where the victim is dissatisfied, they can then take further steps.

The current drafting of the bill is focused on those powers of the Victims' Commissioner aligning with the rights that are currently prescribed in the charter. The charter does not have a specific comparison to that particular provision; it focuses more on the general rights being where a victim has not been dealt with using dignity, compassion and respect and then talks to the information sharing components in part 2 of the charter. The Victims' Commissioner powers under the Queensland legislation are more designed and focused on the charter as it currently stands. I acknowledge though that there are some differences between the South Australian model and the Queensland model. I hope that answers the question.

Mr ANDREW: Thank you.

Mr HUNT: Thank you for coming in today and for your valuable time. Could you comment on the role of a deputy commissioner and whether you think that might be a worthwhile exercise?

Mr Coccetti: In relation to a deputy commissioner, it is not prescribed in the bill. As the written response to submissions and others commented, it is really a matter for the Victims' Commissioner once they are appointed to work out how their office will operate. Clauses 25 to 28 deal with the establishment of the Office of the Victims' Commissioner. The office will be fully controlled by the commissioner so it is really a matter for the commissioner as to how they appoint their leadership teams and how they appoint those kinds of structures. A deputy commissioner structure in legislation is not provided for in the bill. To effectively provide for a legislative deputy is not there, if I am being clear enough.

Mr HUNT: Thank you. Just to tease that out a bit further, there is a possibility that a Victims' Commissioner down the track might decide that a deputy would be an ideal outcome. Is there scope within their office currently as it exists to facilitate that?

Mr Coccetti: I caveat the answer to the question by saying that I would not want to anticipate what a future Victims' Commissioner might do. It would be within their complete control as to how they establish their office, how they fund positions and how they employ those particular positions and those kinds of categorisations. That would be a matter for the Victims' Commissioner moving forward. There is nothing in the bill that prohibits those matters. The Victims' Commissioner has full control over that office and how it operates. As I said, without anticipating a future Victims' Commissioner and speaking on their behalf, there is nothing that prohibits it in the bill.

Mr HUNT: Thank you. Despite your misgivings, that was a very effective answer.

Mr KRAUSE: I want to touch on the fact that a number of submitters expressed concerns about the independence of the Victims' Commissioner, not only because of the way it is established in legislation but because of the selection process through Governor in Council. We had Angela Lynch with us before the break outlining their concerns about that and how it is done in other places. Can you comment on these concerns in the submissions?

Mr Coccetti: In relation to independence, I note that there has been some concern around, for instance, clause 8 in relation to 'represents the state'. The main reason for that provision is not to control or influence the independence of the commissioner. That provision is there to allow the statuses and privileges of the crown to apply. It actually exists in other pieces of legislation. It mainly impacts on the status of the statutory body in legislation. For instance, there are lots of governance acts, as you would be aware—and they are not coming to me off the top of my head—that exist across the statute book which relate to statutory bodies that represent the state and those particular requirements. That

provision is not to influence the independence or say that it represents the state in the form of it being a statutory body that would lack independence, but more to ensure that those status immunity privileges apply.

In relation to the independence, there is also clause 11 which specifically talks about the fact that the Victims' Commissioner 'must act independently and in the public interest'. Clause 11(2) also says—

... the commissioner is not subject to direction by any person, including the Minister, about the way in which the commissioner's functions are to be performed.

The final point is then in clauses 25 to 28. As I mentioned earlier, and I will not repeat it, the office of the commissioner and how that office functions is at the complete discretion of the Victims' Commissioner. There may be instances, as you will see in 26 (2), where it might be attached to the department for the provision of administrative operational supports but not in relation to how those functions of the Victims' Commissioner would be performed.

In relation to appointment, the Governor in Council is appointing on the recommendation of the minister, which is fairly consistent with statutory bodies across the statute book. There are a few exceptions to that—sorry, that is probably not the best way to describe that. There are particular examples—for instance, the CCC appointments relate to nomination, bipartisanship and things of that nature but that is an outlier compared to other appointments of this nature.

Ms Young: By way of example on that, the principal commissioner of the QFCC is a Governor in Council appointment. The Inspector of Detention Services who is also the Ombudsman is a Governor in Council appointment as well. It is consistent with bodies that have independent oversight of their areas within scope.

Mr ANDREW: Could you give us some clarity about prescribed entities? In some sections in the bill, a prescribed entity refers to entities funded by the government or the state and then there is a definition of a 'non-government entity' in schedule 2. Could you give us some information on prescribed entities?

Mr Coccetti: The 'prescribed entity' definition is contained in schedule 2 and applies across various parts of the bill. I note an important distinction is 'prescribed entity' versus who is captured under the charter provisions in chapter 3, which moves to 'prescribed person'. In relation to 'prescribed entity', it includes—

(a) chief executive of a public sector entity—

That covers departments and things of that nature—

(b) the director of public prosecutions;

(c) the police commissioner;

(d) an entity funded by the Commonwealth or the State that provides services to victims as its primary function.

Effectively, the consideration that was given around these particular agencies is that they are, for lack of a better terminology, within the government's remit—that is, the government funds those particular entities rather than talking to all non-government stakeholders. Also, those particular provisions arise in relation to information sharing powers and assisting the Victims' Commissioner in getting information to inform its systematic review function, and the board in relation to its systematic review function, and then finally the Victims' Commissioner in relation to the complaints function. Have I answered that?

Mr ANDREW: From what I could tell from another witness, it is the same as a non-government entity; the definition was described as being the same in schedule 2 and used in the provisions of the bill that relate to the Charter of Victims' Rights.

Mr Coccetti: In relation to the use of 'non-government entity', the definition is taken from the Victims of Crime Assistance Act in relation to the current charter. That is why that has come across in the bill. The intention is that the Charter of Victims' Rights itself and the definitions are as closely aligned as they can be to provide that. In moving the Charter of Victims' Rights from the Victims of Crime Assistance Act to the victims' commissioner bill, we were as cautious as possible in not trying to expand scope or change the nature of the rights.

Ms BUSH: Thank you all for the work that you have done on the bill. I want to wrap my head around what we are doing because a lot is going on. We are relocating the charter out of the VoCA legislation and creating a new act that will contain this and the other provisions that we are talking about today; is that correct?

Mr Coccetti: Yes, that is right.

Ms BUSH: We are expanding the victims' charter, which is actually a recommendation that we made on another committee inquiry, to allow for victims of property crime who have been harmed to be able to make charter complaints with the commissioner. What kind of consultation did the department do with stakeholders in relation to that expansion?

Mr Coccetti: At this stage we have moved schedule 1AA, which is currently where the charter sits in the Victims of Crime Assistance Act, across to the schedule of the bill. There is no expansion from this particular part of the transfer. In relation to recommendation 19 of the taskforce report, the government response was that a review would be conducted by the Victims' Commissioner, once established, and that the Attorney-General would write to the Victims' Commissioner. At this stage there is not any change. The reason for that is effectively not to anticipate that review. It is anticipated that once the Victims' Commissioner is established recommendation 19 would be addressed and that writing and request for the review to be conducted by the Victims' Commissioner would occur. At this stage, expansion was not considered more than just transplanting across, establishing the Victims' Commissioner and, once that is complete, moving to the next phase of doing the review of the charter.

Ms BUSH: I have misunderstood a little during the day. We are setting up the Victims' Commissioner and we are giving them the appropriate legislative authority to complete that review and move the charter over. This bill will not necessarily automatically expand charter complaints into property crime but it will allow the commissioner to proceed with the relevant inquiry to do that; is that correct?

Mr Coccetti: It does not expand the scope to property crime. Clause 38 is the scope of the charter in relation to who is considered to be an 'affected victim'. Clause 39 talks about a 'relevant offence' being an offence against the person, domestic violence within the meaning of the Criminal Code, an offence against the Domestic and Family Violence Protection Act 2012 and the particular sections that you will see there, and then an offence of committing or conspiring to do one of those. This comes from the charter as it now stands. It does not expand to victims of property crime in this particular component.

Ms BUSH: Where did I read about the property crime? Is that in the schedule?

Mr Coccetti: The expansion of property crime comes into section 6. It would be within the scope of a systemic review, for instance, but not necessarily in relation to the expansion of the charter. At this point, that is why. We have just transferred the charter across. Again, without anticipating what the Victims' Commissioner may look at, it would be within scope that they could do something of that nature.

Ms BUSH: I can see that Leanne is keen to say something.

Mrs Robertson: The complaints function is very limited to the charter and the charter has those existing parameters so we are not changing that.

Ms BUSH: Understood, but the systemic review component, they can take a broader look. Thank you for clarifying that.

Mrs Robertson: The definition of 'victim' for that purpose, the systemic function, is broader and can include victims of any crime. That is the distinction.

Ms BUSH: We will have a Victims' Commissioner that has a broader oversight and systemic review function and they can then look at doing a review as to whether they want to expand the charter to include that. That is a matter for them once they are set up and operating.

Mrs Robertson: Just on that, it is anticipated that, once the Victims' Commissioner is established, the Attorney would write to the Victims' Commissioner in relation to the review of the charter itself.

Ms BUSH: Now I have it. The question that was coming up in the earlier hearings today was one of resourcing. How do we protect the idea in the Women's Safety and Justice Taskforce that all the work that the sector has done in elevating the voice of those particular victims is upheld while also expanding? Do you have a comment around that or around resourcing generally that you want to make here?

Mrs Robertson: I can tell you about what government has allocated resource wise. Just coming back to the points that Mike has made earlier, clause 11, the independent mandate for the commissioner, does factor in that the commissioner, in acting independently, has regard to 'all of the following' and those are, in a generic sense, some of those vulnerable groups that have been the focus. It does not mean that that is the only focus. I do not want to pre-empt, obviously, what an independent commissioner would do. However, there is a bit of legislative signposting, I guess, for want of a better expression.

Ms BUSH: I think you have captured all that we have talked about today: women, children, CALD clients, disability, LGBTIQ, elderly.

Mrs Robertson: In those examples.

Ms BUSH: And resourcing?

Mr Coccetti: In relation to the resourcing, the Queensland government has allocated \$18.301 million over five years from 2023-24 and up to \$4 million ongoing from 2028-29.

Mr KRAUSE: I think one of my questions has been answered. I was going to ask about the costs and you have given the budget allocations. Can you give an idea of how that works out in terms of employees, both for the Victims' Commissioner and the Sexual Violence Review Board?

Mr Coccetti: Again, I caveat this by saying that the operational components will be a matter for the Victims' Commissioner. It is anticipated that there would be approximately 12 FTEs to establish the Victims' Commissioner and run that office. Two of those have been allocated for the secretariat for the board within that office. Again, as to positions and things of that nature, that would be an operational consideration for the Victims' Commissioner.

Mr KRAUSE: The budget figures that you provided before were for both functions.

Mr Coccetti: Yes, that is right.

Mr KRAUSE: In relation to the Queensland Sexual Assault Network and their evidence, there were concerns that the Victims' Commissioner may not be able to, of their own volition, provide submissions to inquiries like this one and to give reports to parliament because they report to a minister and not to the parliament nor conduct its own reviews to hold other agencies to account. That was how it was put. Particularly in relation to the aspect of making submissions on bills and reports to parliament, how do you respond to those concerns in the context of concerns about independence? Probably the more direct question is: will the Victims' Commissioner be able to do that?

Mr Coccetti: There are a couple of questions in there so I will try to take them one at a time. If I do not get to all of them, please, ask again. In relation to reporting to the minister, I will start on that. The reports go to the minister. That approach is aligned with other agencies such as the QFCC in terms of providing a report to the minister for tabling. That compares to the QAO or another agency of that nature that would provide directly to parliament as an officer of the parliament.

In relation to the ability to conduct their own reviews, clause 9(a) is 'to identify and review systemic issues relating to victims'. That is quite a broad definition and they could very well instigate their own systematic review as they please. In relation to that also, I note clause 37 also talks about terms of reference in that the commissioner can publish terms of reference about what it is going to conduct an inquiry on.

In relation to the final matter about providing submissions, there is nothing that is explicit in the bill about directly providing submissions and commentary on a bill, proposals that are before parliament or otherwise. However, I do note clauses 9(f) and 9(g). Clause 9(g) states—

To provide advice to the Minister on issues affecting victims and the promotion of victims' rights, including making recommendations about improvements to government policy, practices, procedures and systems to support the rights of victims
Within that scope it may very well be that, if the minister were to request advice, they could provide it in relation to a position on a particular bill, whether that be state or Commonwealth. Clause 9(f) states—

To promote the victims charter and rights of victims and to advocate on behalf of victims by making recommendations and providing advice, training, information or other help to government and non-government entities

In that particular limb we would also see that, if a government agency was formulating a view, it may very well be that the Victims' Commissioner could also provide a response to one of those agencies in terms of formulating a position. In relation directly, though, to providing advice in relation to a bill before a parliamentary committee, that is not something that is addressed. I hope that answers the question.

Mr KRAUSE: I am sorry: what was the last sentence?

CHAIR: He said it is not addressed in relation to giving advice to a committee or making a submission to a committee.

Mrs Robertson: Chair, in that regard, I note that it is not specifically provided for but, when you look at the functions, it refers to the fact that it actually can act independently in the public interest and the powers. I guess parliamentary committees will ask witnesses. I note that probably even some of the witnesses this morning do not have specific provisions in their legislation but obviously can do that.

CHAIR: Like the QFCC.

Mrs Robertson: Yes.

CHAIR: They often make submissions and the Human Rights Commissioner often does.

Mrs Robertson: I think when you combine the functions and the powers together, it is implicit.

Mr ANDREW: I want to talk about the risk of perpetrators accessing information. There has been a little bit of controversy around the fact that there could be subpoenaed information and they could use some of that information to bolster their own case and their position against the victim. Could you expand on that? Have we gone far enough to stop access to information once this has been given to the board and to the commissioner?

Mr Coccetti: I will quickly address some of the information sharing components to clarify that from start to finish because I think it would be beneficial in answering the question. In clause 29, the Victims' Commissioner can ask in relation to its function of performing and identifying and reviewing a systematic function. That is what triggers the power to request the information from one of those agencies. I note that this morning it was made in relation to non-government stakeholders who provide services. Clause 29(4) states—

The entity must comply with the notice, unless the entity has a reasonable excuse.

Reasonable excuse is not exhaustively dealt with. Clause 29(5) then provides some examples, being legal professional privilege and otherwise, as to what a reasonable excuse might be; however, there is nothing that stops an agency from raising a justification of reasonable excuse for not handing over information where they may consider it to be protected or give rise to one of these, whether it be legal professional privilege or it would endanger a person's life or physical safety. The board has very similar provisions, as members would know.

In relation to the protections that then apply, clauses 95 and 96 cover the member, the commissioner, a member of the board and others. They are required not to 'disclose the confidential information to anyone else, or use the information, other than under that section. There is a maximum penalty of 200 penalty units for people who fail to comply with that particular component.

Clause 95(3) then talks about allowances for when that disclosure may occur. I know that the member is talking to particularly what would be clause 95(3)(d), which says that disclosure may occur 'in compliance with a lawful process requiring the production of documents to, or giving of evidence before, a court or tribunal'. This is consistent with other legislative provisions. Notably, the QFCC has a similar protection of information provision. We also note that interjurisdictionally it is consistent with other victims' commissioners.

We also noted in the written response that there would still need to be the exercise of judicial discretion by the court in relation to the issuing of a subpoena, so there are several protections in relation to that. There is also some clarity provided. The scope of getting information in the first instance is quite narrow: it has to be within the scope of the systemic review; secondly, entities will have an opportunity to raise issues and provide that reasonable excuse discussion with the Victims' Commissioner in providing the information; and, thirdly, there are protections that are also applied in the bill. I hope that answers the question.

Mr ANDREW: Yes, I am just making sure. There things protected with respect to counselling and communications set out in section 14A of the Queensland Evidence Act 1977. I am just trying to work it out so there is never an issue where trust is eroded from the victim. Do you think we have gone far enough? Do you think there is no way that the veil of secrecy and privacy over a victim's counselling situation or any information that arose can be accessed by a perpetrator? That is what I am really getting at.

Mr Coccetti: In relation to that reasonable excuse component, I raised clause 29(4) earlier. We appreciate that sexual assault counselling privilege is protected and confidential information that would be within the scope. If a request were to go to a non-government agency, they could very well raise the equivalent provision with the Victims' Commissioner or the board, 'We are not providing this information to you on the basis of something like sexual assault counselling.'

CHAIR: So the provisions that already exist in other legislation would provide protection to the victim?

Mr Coccetti: I would imagine it could be raised as part of the response to the Victims' Commissioner that it is protected information by virtue of those other pieces of legislation. That would be within scope.

CHAIR: Does it become unnecessary to have it in this legislation because of the broader protections that are provided, for example, under the Evidence Act?

Mr Coccetti: It is really a matter for government as to whether—

CHAIR: I am sorry to delve into policy.

Mr Coccetti: No, that is okay. I was just going to say that clause 29(5) does give some guidance as to what a reasonable excuse may or may not be. That is provided from other comparable pieces of legislation. It is a matter for government as to whether further steps need to be taken in relation to that matter.

Mr BOOTHMAN: My final question is more along the lines that most people out there, the general public, really would not know about this potential legislation coming up, especially in those more marginalised or minority groups, including multicultural groups. How is the department expecting to get this information out to those individuals to ensure those people know that this commissioner, this review board, will be there to best service them and their needs? What is the intention of the department to get that information out there and to get people to respond to what this bill is trying to achieve? What we are trying to achieve is all lovely, but we are servicing the Queensland public to make sure they understand what we are trying to achieve here.

Ms Bandaranaike: The permanent Victims' Commissioner will have a public facing function—not the department, but the Victims' Commissioner—to publish information in relation to the criminal justice system. Victims Assist Queensland will continue to have an educative role and a primary role in supporting victims of crime. To give you an idea of the sort of public facing engagement function that the permanent Victims' Commissioner could have, you could look at the current work that the Interim Victims' Commissioner is doing. The Interim Victims' Commissioner has a non-legislative role, but they have an engagement role to engage with victims of crime, families and victim support services to really hear about their experiences in the criminal justice system. A big part of their role has been raising awareness of victims of crime, their rights, services that are available, and developing additional accessible resources for people to understand their rights. As I understand it, that has also included developing some accessible resources for victims of crime.

As we understand it, since the appointment of Mr Jon Rouse as the Interim Victims' Commissioner's he has met over 150 stakeholders to hear about their experiences. That has really informed some of the ongoing engagement activities that the permanent Victims' Commissioner might continue. For example, engagements, as we understand it, have identified that most victims are not aware of the Charter of Victims' Rights, so to improve their understanding the Interim Victims' Commissioner has recently published an easy-to-read English version of the charter and is working towards a range of other materials, including web-based and hard copy information products. In terms of the role that the permanent Victims' Commissioner could play, it would be to continue some of that public facing work while noting, though, that there has continued to be a role for Victims Assist Queensland primarily around supporting victims of crime.

Mr BOOTHMAN: How are we going to do that, especially with multicultural groups? As I said before, there may be a stigma against people speaking out. How is the department going to break through those cultural groups to get this information to them so that those people feel they have somebody they can go to to express their thoughts and their opinions? One of the submitters today talked about how different cultural groups will have different philosophies of what they see as a stigma or something taboo that you do not want to talk about. I just want to know how we can break into that area.

Mrs Robertson: It is key in the legislation that the Victims' Commissioner has a function to promote the charter and the rights of victims. I think implicit in that would be that the Victims' Commissioner—I do not want to pre-empt what that person might do—would have to have regard to the nature of Queensland and the multicultural society in which we live and would have regard to those sorts of things. I do not want to pre-empt anything, but I think almost implicit is that that communication and making the Victims' Commissioner and the various functions accessible to people will be part of that remit as it is rolled out. Some of that funding that has been provided by government I think would be—not wanting to pre-empt that person's decisions—used in those sorts of areas. In many ways, Mr Rouse has set that tone in relation to the work that, as the interim commissioner, he has been doing in that space. I think it is likely that would be looked at moving forward as such.

CHAIR: I stand corrected on this, but I understand that clause 47(1) proposes that a complaint made or referred to the commissioner must be in writing. In relation to the deputy chair's question in relation to our multicultural and First Nations and Torres Strait Islander people, they do not always have the capacity to put it in writing or have access to technology. If it has to be in writing, that may exclude a cohort of victims.

Mr Coccetti: I can talk to this in a little bit more detail. I understand that earlier today there were also public submissions and concerns raised.

CHAIR: There was.

Mr Coccetti: So this is a good opportunity to talk to them, and thank you for raising it. The construction of clause 47 relates to the requirement to be made in writing. The important point is that clause 47(2) then says—

If the commissioner is satisfied that the complainant needs help to put the complaint in writing, the commissioner must give reasonable help to the complainant to put the complaint in writing.

In relation to that particular point around oral submissions, it is not prohibited. What we are looking for in that particular component would be if a person needs assistance because they come from a diverse background or are not able to put a written submission forward, the commissioner would be able to then assist them in putting something into writing.

CHAIR: Facilitate it.

Mr Coccetti: Yes. The formality of clause 47 is more around having records in relation to that particular complaint. It also goes to the point made earlier today around anonymous complaints. Chapter 3 provides more of a structure to the Victims' Commissioner as to how those matters are to be dealt with. If the Victims' Commissioner is going to investigate and try to resolve the matter on behalf of a complainant, there really needs to be a written complaint and some contact details to then close that loop and go back to the individual concerned so that it can then resolve the complaint with that individual.

Going to the point of anonymous complaints, there is no particular issue with a person writing to the Victims' Commissioner and saying, 'I have experienced this particular outcome and I feel particularly aggrieved.' If it did not meet the criteria of clause 47 and a person did not want to progress with a formal complaint, the Victims' Commissioner could very well note that and use that as consultation under clause 9(c) or it may very well trigger a systematic inquiry. Again, I am not wanting to bind a Victims' Commissioner that every letter they get that does not want to be a formal complaint would be dealt with, but it may very well be used as an information guide. I am sorry, I think I have jumped there, so I will just summarise. Clause 47, the requirement of having a written complaint is around having a formal record so the Victims' Commissioner would—

CHAIR: Would it allow someone to make an oral complaint?

Mr Coccetti: If somebody needed to make an oral complaint, they very well could, and the Victims' Commissioner could then reduce that into writing. You will also see in clause 58 there has been an intentional approach taken that, if the commissioner asks the complainant for information under section 50 or advises the complainant in relation to dealing with, refusing to deal with or referring the complaint under sections 48, 52 or 57, they must reduce that into writing. The reason for that is that those provisions were actually changed that the Victims' Commissioner could verbally give advice to somebody and then is required to make a written notice about it. The reason for that is so there is an adequate written record so if there were any questions about how a complaint was managed there would be a written record. That advisory component and the interaction with the victim does not necessarily always have to be in writing, if that makes sense.

CHAIR: I understand.

Mrs Robertson: I want to clarify a couple of things. In relation to the public awareness question, we understand that the Office of the Interim Victims' Commissioner has recently developed and published an easy-reading English version of the charter itself and is working towards developing a suite of easy read charters in other languages. Web-based and hard copy information products are also being developed in that space. Chair, I should make an apology. I think when I referred to the Interim Victims' Commissioner I said 'Mr Krause' and, of course, I meant Mr Rouse—so apologies to Mr Krause as well.

Mr KRAUSE: I can see why you made a mistake.

CHAIR: Before we go any further, how is the department situated for us to go over time? I am in your hands. If you say, 'No. We've had an enough of you. We have to go,' I will close the hearing.

Mrs Robertson: We are fine, Chair.

CHAIR: Jon, you are first cab off the rank. Each committee member will only get one more question.

Mr KRAUSE: Noted. LawRight suggested that a sexual assault counselling privilege be included to safeguard information of a very sensitive nature being exchanged between the Victims' Commissioner, the review board and other entities. Can you comment on those concerns and representations?

Mr Coccetti: My answer will probably be quite similar to what I mentioned in relation to clause 29(4). If the Victims' Commissioner were to request information from—let's use LawRight as an example respectfully. If there was information that was requested from a non-government agency of that nature, the entity is required to provide that information, but there is also the ability for that entity to raise reasonable excuses as to why that information would not be provided. That goes to clause 29(7), which talks about, if a prescribed entity does not comply with the notice, they must advise the Victims' Commissioner in relation to that noncompliance. Where they say, 'I'm not providing this to you,' by virtue of reasonable excuse of sexual assault counselling privilege, that would be within scope. There may very well be subsequent discussions at operational levels, but that is how the legislation is constructed in relation to that reasonable excuse component. Does that answer the question, member?

Mr KRAUSE: Yes.

Mr ANDREW: I refer to Mr Boothman's questions about the multicultural side of it. There are the old nine words—this does not reflect on your department—'I'm here from the government and I'm here to help.' A lot of people who come in as refugees come from tyrannical areas where they do not like letting government into their life at all. In fact, they are here because of their governments. Situations can arise. I hope that those people use these services. I hope that you can penetrate that refugee status where those people have such a distrust in authorities and the government.

CHAIR: Do you have a question, Steve?

Mr ANDREW: No. That is it. It is serious.

CHAIR: We take your comment onboard. Jason, do you have a question? I take by the silence that is a no. Jonty, do you have a last question? Keep it short.

Ms BUSH: I assume that by having the commissioner take on the charter complaints that will put an end to the victim services coordinator overlooking charter complaints in future. Does that then free them up to do more of the work that we are talking about around the engagement, communication and research functions of that role?

Mr Coccetti: Yes, that is correct. I believe it is section 139 of the Victims of Crime Assistance Act that deals with that particular component. There are amendments made in this particular legislation to remove those overlapping complaint functions. I would say that by virtue of removing those functions it would open them up to continue to focus on their role. As Sakitha mentioned earlier, in tune with all of this work that the Victims' Commissioner is doing, there is also those components around Victim Assist Queensland's role in providing those support services. They will continue to administer the financial assistance scheme, and provide advice and information to victims of crime. The Victims' Commissioner is one part of a much broader network. Yes, to answer the question—sorry, I have said too much.

Ms BUSH: That was a great response. No. It is never too much.

CHAIR: That concludes this public briefing. Thank you for your attendance here today. I do not think we took any questions on notice which is always a good thing. Thank you to Hansard. Thank you to the secretariat. A transcript of these proceedings will be available on the committee's webpage in due course. I declare this public briefing closed.

The committee adjourned at 2.05 pm.