

Victims' Commissioner and Sexual Violence Review Board Bill 2024

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DVCONNECT

Be heard. Be safe.



SUBMISSION

**Victims' Commissioner and
Sexual Violence Review Board Bill 2024**

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DVConnect receives funding from the Queensland Government

DVConnect respectfully acknowledges and celebrates the Traditional Owners/Custodians throughout Australia and pays its respects to Elders, children and young people of past, current and future generations. We are committed to helping anyone experiencing domestic, family and/or sexual violence. This includes the LGBTIQ+ community, people of all ethnicities, religions, ages, abilities and pets.

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About DVConnect

DVConnect provides several national and state responses to people who have experienced violence and offer support and pathways to safety and healing.

Queensland wide:

Domestic, family and sexual violence response services:

- DVConnect Womensline
- DVConnect Mensline
- Sexual Assault Helpline
- Forensic Support Line
- Pets in Crisis
- Bella's Sanctuary

Victims of crime service:

- Victim Connect
- Victims of Crime Community Response Pilot

Nationally:

- National Sexual Assault, Domestic & Family Violence Counselling Service, 1800RESPECT.

DVConnect's driving ethos is respect and safety, the right of people to live without violence, in the home or in the community. We are a not-for-profit organisation, with primary funding streams from Department of Justice and Attorney General, Office for Women and Violence Prevention (Queensland); Department of Justice and Attorney General, Victim Assist Queensland (Queensland) and Department of Social Services (Australia).

DVConnect was established in 1980 and is Queensland's state-wide crisis response service for domestic, family and sexual violence. DVConnect helps Queenslanders find pathways to safety 24 hours a day, 7 days per week. Annually, DVConnect takes in excess of 100,000 calls across all lines and provides crisis intervention across a number of key services. Womensline receives one call for help every five minutes (across a 24 hour period). Crisis support is provided in the form of emergency telephone support, emergency crisis accommodation placement and transport for families affected by abusive relationship, counselling for men, women and victims of sexual assault, education and support for men, community education, and care for pets of families experiencing domestic and family violence. DVConnect also operates Bella's Sanctuary a 5-unit medium-term accommodation residence that exists to provide women and children with a safe housing option after leaving a shelter/refuge.

DVConnect provides Australia's national sexual assault, domestic and family violence support service, 1800RESPECT. This service provides information, referral and counselling 24 hours a day, 7 days per week. DVConnect are subcontracted by Telstra Health to provide specialist counselling across the country.



Victim Connect is the state-wide response for victims of crime that fall under the *Victim Of Crime Assistance Act 2019* (Queensland). VictimConnect provides a state-wide 24/7 helpline and multi-session counselling and case management support service. Delivering this service expands DVConnect's experience with those who experience domestic, family and sexual violence (DFSV) to now include those who experience violent and personal crime across Queensland.

DVConnect operates from an intersectional feminist framework, acknowledging that DFSV is gender-based violence. This gendered analysis is supported by research, evidence and data, and indicates that DFSV is most often perpetrated by men against women, and that perpetrators of this violence are fully responsible for their actions. This framework acknowledges and responds to the intersectional experience of DFSV.

While the experience of those impacted by violent and personal crime is more broad reaching than DFSV, we build upon our intersectional, trauma-informed expertise to offer recovery-based counselling and case management.

The clinical services provided by DVConnect are inclusive and trauma-informed. We are guided by the diverse voices of survivors and recognise our clients as the expert in their own lives. The abilities, strengths, goals and needs of people living with disability are respected, as are individuals from culturally and linguistically diverse backgrounds. DVConnect acknowledge that Aboriginal and Torres Strait Islander people know best what their communities need and want. Importantly, the intersectional approach of DVConnect considers and responds to how overlapping forms of discrimination may impact a client's experience of DFSV and other violent and personal crime.

Through operating multiple state-wide services DVConnect has unique insight into the experience of both violence and relevant services systems across Queensland. This combines with our national program which furthers our appreciation and practice-based evidence about geographic diversity and its impact on how DFSV and ability to access safer and supports.



Opening Statement

The importance of a Victims' Commissioner cannot be overstated. The key tenements of an independent body to respond to victim/survivors and to represent their needs not only validates the importance of seeing, hearing and acknowledging victim/survivors in our community, but also is opportunity to improve the criminal justice system bolstering accountability for those that use violence and perpetrate crime.

Further to this, to have a dedicated Sexual Violence Review Board to bring a dedicated oversight to the systemic responses to sexual violence acknowledges what victim/survivors have been experiencing for years and brings an essential lens to hold the larger system accountable to responding to this violence.

At DVConnect we are specialists in listening and supporting victim/survivors of violence through our various services. We have deep knowledge of how the system impacts on victim/survivors and what victim/survivors say is important to them. However, we are not experts in understanding legislation or interpreting the governance context of some elements of this Bill. Therefore, we do defer to other expertise in these areas from our partner services.

In saying this, we know that beyond legislation, effectiveness lies in how it is applied and the context in which it operates. Therefore, even if higher levels of legal interpretation were available to us, we would still ask that a review process is inbuilt in the structure of the Victims' Commissioner and the Sexual Violence Review Board in 5 years to ensure its intent is being met.

On a separate note, but of critical importance. The timeframe provided for this submission is unacceptable to enable due consideration and debate of such important topics, a timeframe of more than 5 business days is essential. This timeframe is disrespectful to the work and expertise of community. While we acknowledge the consultation that did occur to underpin this Bill in late 2023, due time is still required to consider how this has been interpreted into this Bill. DVConnect wishes to note our frustration expressly and specifically with this timeframe.



Victims' Commissioner Scope

The role of the Victims' Commissioner must be broad to meet the diverse needs and experiences of victim/survivors in Queensland. In this broad scope there is a significant worry that the distinct vulnerabilities faced by survivors of DFSV may not receive sufficient support under a comprehensive definition of "victim" and the mandate of the Victims Commissioner. This was a concern that was highlighted in the WSJT report with a clear solution to ensure a dedicated focus and response.

We refer to Hear Her Voice Report 2 Recommendation 18-
"The commissioner should have a specific and dedicated focus on victims of domestic, family and sexual violence and First Nations victim-survivors given the particular vulnerability. This focus may be through the establishment of a deputy commissioner role, or similar."

We note this Bill is lacking the role of a Deputy Commissioner at all and no specific overarching function to address the specific needs of this highly vulnerable cohort.

Further, the expansive inclusion of victims of an inclusive range of crimes in the Bill, more wide-ranging than that which is captured under the Charter of Victims Rights, is likely to place too much pressure on demand and resources and defuse any ability to have a dedicated response for victim/survivors of DFSV.

Therefore, DVConnect recommendation two actions, the appointment of a Deputy Commissioner dedicated to the cohorts as suggested in the WSJT. Further that significant consideration be given to the types of crimes included as part of the remit of the Commissioner, and while this does not need to be narrowed, the dedication of resources and action by the Commissioner must ensure those that are most vulnerable as given priority.

Finally, it must be acknowledged the power the WSJT has had in enabling the Commissioner role to be progressed. It would be therefore appropriate to recognise those voices of victim/survivors of DFSV in securing this for the wider victim/survivors cohort in Queensland.

Sexual Violence Review Board Scope

The role of the Sexual Violence Review Board was recommended by the WSJT to consider individual cases as well as evidence of systemic issues to ensure full accountability for all sexual violence cases. While the Bill suggests that individual issues may be considered indicators of larger systemic issues, this leaves a broad gap in response and accountability. First, individuals who have experienced this highly person, highly traumatic, and severely poorly responded to crime, deserve to have a body that oversees all matters. Further, this capability will increase the opportunity to identify systemic issues that could be easily dismissed without this closer inspection. There are many examples of how individual cases, if more closely examined may have highlighted the significant systemic issues that have been raised across the WSJT reports, Call for Change Report and the Forensic DNA Inquiry well before such taskforces and inquiries were needed.



Membership and independence of the Sexual Violence Review Board

The membership of the Board should also include a member who has experience in providing support services in a recognised Aboriginal and/or Torres Strait Islander specialised agency, preferably one that provides support services to sexual violence victims. While it is acknowledged in the Bill that one member is an Aboriginal or Torres Strait Islander person, we would argue the experience of working in an identified support service provides invaluable and irreplaceable insight into the experience of First Nations women impacted by sexual violence. To bolster this representation, we also suggest:

- The membership of the board should include five non-government members. This allows a slight differential to non-government representation and allows for more diversity of non-government representation.
- The Aboriginal or Torres Strait Islander person on the panel must be in addition to the members who has experience in providing support service in an identified an Aboriginal or Torres Strait Islander agency. That is, this member who has this experience may or may not identify as Aboriginal or Torres Strait Islander, but if this member does identify as Aboriginal and/or Torres Strait Islander than at least one other member must also be Aboriginal and/or Torres Strait Islander

Annual report

The Victims' Commissioner annual report should include, as articulated, the number of complaints about the Charter received by the Victims' Commissioner as well as outcome of those complaints, even if those outcomes are also published by the unique government agency that may respond to the complaint at some point. The Victims' Commissioner annual report should also analyse the published complaints by government entities in their previous annual reports showing indications if complaints are increasing or decreasing year on year. While this will be a retrospective exercise and could be considered unnecessary double publication of the same information, the collation by the Victims' Commissioner in the annual report will:

- Provide yearly monitoring of this information by the Victims' Commissioner
 - To ensure it is completed
 - To ensure the Victims' Commissioner is considering trends and information
- Provide concise, collated information about all agencies responding to the Charter
- Create an opportunity for government agencies to compare their complaint data with other agencies



Sharing of information

To enable the Victims' Commissioner to be a powerful body, the Victims' Commissioner does need to access information that may normally be protected. DVConnect supports the proposed information sharing and accessibility of the Victims' Commissioner for this intent. However, unintended consequences can have significant and fatal impacts. Therefore, it is imperative that information received in this manner is not disclosed beyond the intent of the Victims' Commissioner to investigate. In our reading of this Bill, this is the case.

Beyond this we propose an additional measure of checks for a history of or current order of protection with regard to a domestic and family violence to be carried out prior to employment and a legal mandate for an person to disclose when they are named in such an order, such as a Domestic Violence Order. Employees of the Office of the Victims' Commissioner and the Victims' Commissioner would be subject to this requirement. We know that people that use domestic and family violence (DFV) are employed in a variety of roles and that system manipulation is used by people that use violence. Therefore, this forms a mechanism of accountability for the safety victim/survivors. While we do not see this as a reason for automatic exclusion from the role, this must be available knowledge so that safe decisions regarding appropriateness of that person to each specific role can be made.

It is also not unreasonable to foresee that a person who is using DFV to engage in system manipulation to represent themselves as victims and the person they are subjecting to abuse as a perpetrator or offender. This may trigger an investigation by the Victims' Commissioner about a matter raised as a complaint or as an indicator of broader issues worthy of investigation. Therefore, we also recommend it is legislated that compulsory, comprehensive and regular DFSV training for all employees of the Office of the Victims' Commissioner including the Victims' Commissioner. This will allow the Commission and its functions to ensure safety and rights of this highly vulnerable cohort remain prioritised.

Complaint review processes

In the absence of powers to make a person or entity act in a certain way to ensure that the Charter of Rights is enacted, the ability to publish and report information becomes the most powerful tool that the Victims' Commissioner can have on behalf of the victim/survivors. The ability to have an independent person review whether a victim/survivor's rights have been upheld or not can be powerful validation and perhaps a tool of advocacy for an individual.

However, given the range and scope of information that the Victims' Commissioner can have access to, and the evidence that is known about how people that use domestic, family and sexual violence use systems to maintain power and control over their victims and ensure safety and anonymity in the community, it is important that those who are investigating complaints have an excellent understanding of DFSV. This reinforces the above submission that all employees of the Office of the Victims' Commissioner and the Victims' Commissioner have comprehensive and regular training in DFSV should be legislated as required. An element of this training



would include the ability to assess what information should be included in a complaint reporting process and the potential risks that this may present to victim/survivors.

Skills and knowledge of Office of Victims Commissioner

Outlined above there are several reasons why DVConnect is recommending that DFSV training is legally required of the Office of the Victims' Commissioner including the Victims' Commissioner themselves.

Beyond these specific reasons, there is repeated evidence of how organisational culture and practices can have significant impact on the actions and outputs of an organisation.

Given the remit of the Victims' Commissioner it is therefore imperative that the Office and the Victims' Commissioner has a strong and embedded trauma aware, healing informed framework. This phrasing should be part of the legal framework in which the Victims' Commissioner is stood up.

Further, as the WSJT, Call for Change Report and our experience has shown, no matter the legislated and system protocols that are implemented to ensure the rights of victim/survivors are upheld, that First Nations victim/survivors experience enduring, nuanced and harmful systemic and individual racism. Therefore, in addition to the above recommendation for the legislated inclusion of DFSV professional development, we also strongly recommend that cultural professional development is also legislated as a requirement of the employees of the Office of the Victims' Commissioner as well as the Victims' Commissioner themselves.



Conclusion

DVConnect supports the enacting of the Victims' Commissioner and the Sexual Violence Review Board. On the whole we support this Bill as it has been presented, with six critical recommendations:

That there is an appointment of a Deputy Commissioner whose remit is the dedicated focus on victims of domestic, family and sexual violence and First Nations victim-survivors.

Sexual Violence Review Board also considered individual matters.

Sexual Violence Review Board includes a further member who has experience in providing support in a specialist Aboriginal and Torres Strait Islander, and that the requirement of an Aboriginal and/or Torres Strait Islander person is exclusive of this membership representation.

That employees of the Office of Victims' Commissioner and the Victims' Commissioner undergo DVO history checks and are compelled to advise when they are named on a relevant DFV protection order anywhere in Australia.

That it is legislated that there will be a trauma aware, healing informed approach to the work of the Victims' Commissioner.

That it is legislated that employees of the Office of the Victims' Commissioner and the Victims' Commissioner will undergo comprehensive and regular (annual) DFSV and First Nations cultural safety and competency training.