

Victims' Commissioner and Sexual Violence Review Board Bill 2024

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Subject: – The Independent Ministerial Advisory Council submission to the *Victims’ Commissioner and Sexual Violence Review Board Bill 2024*

Dear members of the Community Safety and Legal Affairs Committee,

The Independent Ministerial Advisory Council (IMAC) thanks the Committee for the opportunity to provide a submission for consideration in relation to the review of the *Victims’ Commissioner and Sexual Violence Review Board Bill 2024* (Qld) (the Bill).

About the Independent Ministerial Advisory Council

On 6 September 2023, the Queensland Government made a public commitment to establish the IMAC to elevate the voice of victims and victim-survivors* in conversations about criminal justice system reform, improve victim support services and provide timely advice to government. On 30 November 2023, following a public expression of interest process, the Attorney-General announced the membership of the IMAC.

IMAC is co-chaired by former Childrens Court Judge Mr John Robertson and Ms Beck O’Connor, Chief Executive Officer of DVConnect and VictimConnect. The membership of the IMAC is broad and includes representation from victim-survivors, victim-advocates, peak advocacy bodies, First Nations people and legal and expert practitioners. An overview of the membership of the IMAC can be found at **Attachment 1**.

**For the purpose of this submission victims and victim-survivors refers to the experiences of those with lived and living experience.*

The IMAC response to the Bill

The establishment of the Office of the Interim Victims’ Commissioner in Queensland is an important milestone in Queensland, particularly for victim-survivors of crime. The IMAC is pleased to see strategies being implemented that bring the experiences of victim-survivors to the forefront of policies, legislation and practice.

The IMAC supports the Committee’s review of the *Victims’ Commissioner and Sexual Violence Review Board Bill 2024*, noting the importance of reviewing the Bill through the lens of victim-survivors, considering how processes and practices can be best shaped to provide improved services to victim-survivors.

Moreover, there is a hopeful anticipation that these efforts will amplify the voices of victims, survivors, and related victims of crime who have faced systemic barriers in accessing justice, support, and healing, particularly those disproportionately impacted within the criminal justice system due to factors like gender, sexuality, age, disability, race, and legal status. The IMAC underscores the importance of tailoring these initiatives to ensure they address the nuanced

needs of these communities, thereby fostering a more inclusive and effective criminal justice response for all victim-survivors.

The IMAC members note there is ongoing work required to increase victim-survivors' participation and support in the criminal justice process, but there is an identified gap in providing lifelong safety to victim-survivors.

For the purpose of this submission, the IMAC has conducted a jurisdictional analysis of legislation on Victims' Rights in Queensland, Victoria, New South Wales and the Australian Capital Territory to provide potential options for strengthening the Bill. The IMAC presents its findings below.

1. Lack of enforceability mechanisms to compel adherence to the Victims Charter provisions by relevant parties.

While the powers (s 10) granted to the Commissioner under the current draft legislation are commendable for their intent to act independently and in the public interest, they fall short in ensuring that entities and individuals are held accountable for non-compliance. This omission undermines the Charter's potential effectiveness in safeguarding and advocating for victims' rights.

Proposed Amendment:

IMAC proposes the establishment of a clear framework within the Charter outlining the consequences for non-compliance by individuals or entities. This could range from financial penalties to mandatory corrective actions. It is also proposed to grant the Commissioner not only the authority to investigate complaints of non-compliance, but also to issue binding directives to ensure adherence to the Charters' provisions.

2. Recognising the rights of victims-survivors along the justice continuum and the requirement for justice agencies to implement the Charter of Rights as it relates to their roles and responsibilities.

The IMAC notes that, as presently drafted, the Charter of Victims' Rights applies to an affected victim-survivor up to the conclusion of the relevant court proceedings. If this interpretation is correct, then the proposed Charter of Victims' Rights does not apply while an offender is serving a term of imprisonment as a result of conviction, or during any following period in the community on parole or following upon the term of imprisonment.

The IMAC proposes this key oversight and others outlined below, could be remedied to better recognise the rights of victim-survivors, as follows:

Clarifying the responsibilities of agencies to victims-survivors

Under the Bill, s 41 and s 42 sets out the purpose of the Charter of Victims' Rights and requirements for prescribed persons to observe these rights. A prescribed person is defined as a government entity, non-government entity or an officer, member or employee of either such entity (s 40). The Bill could be amended to allow more specificity as to the particular role of agencies along the justice continuum.

In Victoria, the *Victims' Charter Act 2006* (the Victorian Act) outlines the agencies responsible for implementing the principles of the Victims' Charter – for example, the investigatory agency, a prosecuting agency or a victims' services agency. The Victorian Act further clarifies the role of agencies in their interactions with victim-survivors (see Part 2— Charter principles governing response to victims and persons adversely affected by crime).

In the IMAC's view, while the Victorian Act does not go far enough, in that it does not set out the requirements of the parole board, it does inform victim-survivors of how their rights are to be observed and implemented by justice agencies.

Proposed Amendment:

The Bill is re-drafted to clarify the role of agencies along the justice continuum (investigators, prosecution, and parole) in observing and implementing the Charter of Victims' Rights, similar to Victoria's *Victims' Charter Act 2006*.

[Recognising the safety of victims-survivors beyond sentencing](#)

By reference to Schedule 1, Division 2, Section 6 (Rights relating to the criminal justice system) of the proposed Charter, an offender who, during his period of incarceration and/or parole, contrives to make 'unnecessary contact' with the victim-survivor, and/or procures 'violence or intimidation' upon the victim-survivor through the agency of his family and/or supporters or others, might be subject to the application of the general criminal law, but the victim would not have that right 'to be protected' under the proposed Charter of Victims' Rights.

Proposed Amendment:

Schedule 1, Division 2, Section 6 Charter (Rights relating to the criminal justice system) redrafted,

from:

During a court proceeding, the affected victim will be protected from unnecessary contact with, or violence or intimidation by (a) the accused, (b) defence witnesses and (c) family members who are supporters of the accused, defence witnesses and family members who are supporters of the accused.

to:

Proposed amendment: [inclusion of item 9] - The right set out in section 6 above will extend to the duration of any term of imprisonment resulting from the court proceeding and the duration of any period of parole.

[Providing victim-survivors with information and support when making a Victim Impact Statement](#)

The IMAC proposes re-drafting the Bill to require agencies to provide support to victim-survivors along the justice continuum. For example, under Schedule 1, Division 2, Section 7 (Rights relating to the criminal justice system), the Bill does not give provisions (nor elsewhere) requiring agencies to give victim-survivors support during the drafting and submission of a Victim Impact Statement.

Currently, the Victim Impact Statement is the main opportunity for victim-survivors to have a voice in the criminal justice continuum.

One victim-survivor who is a member of the IMAC commented: “*my Victim Impact Statement was a genuinely heartfelt but ultimately impotent exercise that retraumatised me significantly. Having a voice needs validation, vindication, and offender accountability to be worthy of the debilitating traumatisation, exhaustion, and health impacts that speaking up requires.*”

Proposed Amendment:

The Bill is re-drafted to require agencies to refer victim-survivors to an appropriate victims’ services agency and that victim-survivors are informed of how Victim Impact Statements are considered by courts, similar to Victoria’s *Victims’ Charter Act 2006*.

[Giving victims-survivors options when it comes to making submissions to the parole Board](#)

Under the *Victims of Crime Act 1994* (Australian Capital Territory) (the ACT Act), provisions are made for victim-survivors to make oral and written submissions. The ACT Act also clarifies what may be included in a submission - for example, inclusion of the victim’s concerns or those held by the victim’s family about the need to be protected from violence or harassment by the offender.

In comparison, the Bill proposes, under Schedule 1, Part 2 Section 2 (Rights of eligible persons), that victim-survivors will be given the opportunity to write to the parole board, with no clarifying statements made on what may be included in the submission.

Proposed Amendment:

The Bill is re-drafted to give provisions for victim-survivors to make both written and oral submissions, similar to the ACT’s *Victims of Crime Act 1994*.

And:

That the Parole Board is to consider the submission, similar to wording in Victoria’s *Victims’ Charter Act 2006* s 17(3).

[Re-drafting the Bill to require agencies to consider the views of victim-survivors along the justice continuum](#)

Under the current Bill, once victim-survivors reach the prosecution stage of the justice continuum, prosecutors are only required to inform victim-survivors of each major decision (including the reasons for the decision) regarding prosecution of a person accused of committing the relevant offence.

In other states (Victoria and the ACT and to some extent NSW) legislation allows for the Director of Public Prosecutions to consider the views of victim-survivors, prior to proposed actions, and as appropriate.

Proposed amendment:

The Bill is re-drafted to require the DPP in Queensland to consider the views of victim-survivors, similar to wording in the *Victims' Charter Act 2006* (Victoria) and *Victims of Crime Act 1994* (ACT).

3. Specific and dedicated focus on victims of domestic, family and sexual violence.

IMAC notes that the Bill does not require the Commission to have a specific and dedicated focus on victims of domestic, family and sexual violence and First Nations victim-survivors, given their particular vulnerability, as was outlined in the Women's Safety and Justice Taskforce report *Hear Her Voice Report Two*:

Recommendation 18 - The Queensland Government establish a victims' commission as an independent statutory office to promote and protect the needs of victims of all violent offences. The functions of the commission should include:

- *identifying systemic trends and issues including in relation to policy, legislation, practice or procedure and potential responses to address these issues*
- *assisting victims in their dealings with government agencies across the criminal justice system, including through oversight of how agencies respond to complaints*
- *monitoring and reviewing the effect of the law, policy and practice that impact victims of crime.*

The commissioner will be authorised to exercise the rights of victims, upon their request and with consent, including in relation to their interactions with police, other government agencies and the courts (similar to the model in South Australian).

The commissioner will have a specific and dedicated focus on victims of domestic, family and sexual violence and First Nations victim-survivors, given their particular vulnerability. This focus may be through the establishment of a deputy commissioner role, or similar.

IMAC Recommendation:

IMAC supports the appropriate resourcing of the Commission to appoint a specialist Deputy or Assistant Commissioner to ensure this specific and dedicated focus on victims of domestic, family and sexual violence and First Nations victim-survivors.

4. Broadening the requirements of the annual report (s 34)

Further to Recommendation 18 in the Women's Safety and Justice Taskforce *Hear Her Voice, Report Two*., regarding:

'assisting victims in their dealings with government agencies across the criminal justice system, including through oversight of how agencies respond to complaints'.

IMAC Recommendation:

IMAC recommends that the Commissioner’s annual report also detail the entities about whom a complaint was raised, the timeframe for response by that entity and the outcome of the complaint, including improvement actions and or remedies undertaken by the entity.

5. Recognising the rights of children and young people

The IMAC notes that, as presently drafted, the definition of victim (s 6 – meaning of victim and harm) does not include a reference to a child or young person as a victim, in their own right.

Considering children and young people as victims of crime ensures their unique experiences of trauma and the impacts of violence are recognised, addressing their distinct emotional, psychological, and developmental needs. Such recognition affords them targeted legal protections and rights, emphasising the importance of providing age-appropriate responses and care within the criminal justice system. This includes rights such as being heard in court, maintaining privacy, and protection from further victimisation or re-traumatisation during legal processes and beyond.

Acknowledging children and young people as victims also empowers them by validating their capacity to participate in decisions affecting them, leading to a more child-centred approach in justice that values their voices and perspectives.

Proposed amendment:

Broadening the *Meaning of victim and harm* (s 6) to specifically include children and young people as victims of crime.

6. Complaint process

Transparent timeframes are crucial for victim support and healing, as delays and uncertainties can exacerbate trauma. Moreover, being unambiguous and clear in these timeframes enhances public confidence in the Commission, affirming its commitment to treating victims with fairness and efficiency. Such clarity empowers victims with a comprehensive understanding of the complaint process, enabling them to manage their expectations and prepare both legally and emotionally. This includes making informed decisions about their participation and accessing necessary support services to navigate their recovery journey. By offering victims a clear roadmap of what to expect, transparent timeframes facilitate a sense of progress and where possible, closure.

Proposed amendment:

Requirement for clear and unambiguous timeframes for complaint response and outcomes (s 48) and (s 52).

7. Sexual Violence Review Board

It is the view of the IMAC that any person found guilty of committing acts of domestic, family or sexual violence must not be considered eligible for appointment to the roles of

Commissioner, employees of the commission or appointees to the Sexual Violence Review Board.

IMAC Recommendation:

Further considerations for suitable appointment (s 14) and disqualification from appointment (s 15) to the office of the Commission and the Sexual Violence Review Board (s 67).

Final reflections

The IMAC has heard that victim-survivors require a form of validation to support their healing and to reduce ongoing traumatisation resulting from violent crime. This goes beyond keeping victim-survivors and related victims informed of proceedings. It is the view of the IMAC that access to support plays a role in embedding the safety as a right of victim-survivors.

Mechanisms for the justice system to provide validation requires evidence that the impact of the crime is reflected in the justice continuum from the commencement of a victim-survivors' interaction with law authorities to time during and after an offender has served a sentence.

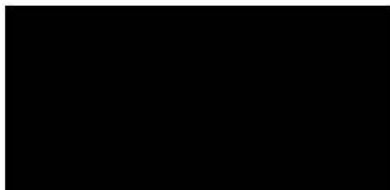
Legislative reform is crucial to improve victim-survivors rights and wellbeing and reduce the impact of their ongoing trauma.

The Women's Safety and Justice Taskforce found in *Hear Her Voice, Report Two* that since the Charter's enactment in 2017, the understanding of victim-survivor experiences, particularly those impacted by domestic, family and sexual violence, has improved. Given this increased awareness and understanding of victim-survivor experiences, the Taskforce found it is no longer acceptable to treat victim-survivors as bystanders in the criminal justice system. Instead, victim-survivors deserve to be recognised as integral parties who deserve respect and recognition.

A Victims' Commission can only be as effective as the foundations on which it is established. As one of the foundations of victim-survivors rights, the Charter must adapt to better recognise and protect victims-survivors in Queensland. The IMAC respectfully asks that the Committee consider its proposals and recommendations.

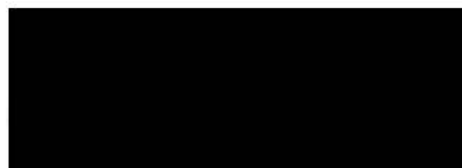
The IMAC would welcome the opportunity to further speak with the Committee regarding the views of the IMAC members. The IMAC co-Chairs can be contacted by email at imac-secretariat@justice.qld.gov.au

Your sincerely,



Beck O'Connor

IMAC co-Chair



John Robertson

IMAC co-Chair

Independent Ministerial Advisory Group Membership

Membership	Name
Co-Chair	John Robertson was a judge of the Childrens Court of Queensland for his whole judicial career and President of that Court from 1999 to 2001. He is presently a part-time judicial member at the Queensland Civil and Administrative Tribunal and was recently Chair of the Queensland Sentencing Advisory Council from 2018 to 2023.
Co-Chair	Beck O'Connor has over 20 years' experience in senior leadership roles in the community and human services sector. Beck is the Chief Executive Officer of DVConnect where she also leads VictimConnect, Queensland's 24/7 victims of crime support service.
Member	Andrea Storey is a victim representative, as a survivor of attempted murder by her estranged husband. Andrea will bring her experience of navigating the criminal justice system as a victim-survivor of domestic violence to advocate for reform.
Member	Brett Thompson is the Chief Executive Officer of the Queensland Homicide Victims' Support Group. His role is focused on victim support, interagency systemic improvement, and advocacy for justice system reform.
Member	Christine Castley is CEO of Multicultural Australia and is a passionate advocate for equal access to justice and services for everyone. She regularly interacts with criminal justice agencies on the challenges faced in multicultural communities by both victims and offenders on a broad range of criminal matters.
Member	Elvie Sandow is the first female mayor of Cherbourg and previously served as Chairperson of Youth and Community Combined Action, a juvenile crime prevention initiative.
Member	Ian Leavers has served the people of Queensland as a Police Officer since 1989. Ian is the General President and CEO of the Queensland Police Union and the current National President of the Police Federation of Australia.
Member	Julie Arthur is the manager of the Cloncurry Justice Association, where her work focuses on court innovation and working closely with the criminal justice system to support victims and offenders.
Member	Professor Lorraine Mazerolle is an international expert in policing and crime prevention. She is a member of the Youth Justice Reference Group, helping to advance evidence-based policies and practices in the government's youth justice strategy.
Member	Matilda Alexander is the CEO of Queensland Advocacy for Inclusion and a human rights lawyer with a lengthy history in the community legal sector. Matilda has won multiple awards for her work with vulnerable communities and holds an enduring passion for justice. Matilda is also on the management committee of the LGBTIQ+ Legal Service.
Member	Robert Keith Hamburger was Queensland's first Director-General of the then Queensland Corrective Services Commission and led significant reform across Queensland's prisons. Keith is a Queensland patron of the Justice Reform Initiative, established in September 2020 with a goal to reduce Australia's reliance on incarceration.
Member	Professor Susan Dennison is a Professor in the School of Criminology and Criminal Justice and the Griffith Criminology Institute at Griffith University. She is currently Director of the Transforming Corrections to Transform Lives Centre, leading a transformative system of practice to better support mothers who experience incarceration, and their children.

Member	Timothy Grau is a practicing barrister at the private Bar in Queensland. His practice is based in Cairns and he works with clients from as far afield as the Torres Strait, Cape York, Cairns and Townsville and surrounding regions.
Member	Zac Davidson is a Youth Parliamentarian with firsthand insight into the complexities surrounding youth-related crime. Zac believes bringing a youth perspective in addressing the youth crime crisis is of paramount importance.
Member	Benjamin John Cannon* is a victim representative who created the community group Voice for Victims following a violent home invasion at his neighbour's property. Ben is advocating for more support for victims and improved solutions to fix youth crime.

In addition, 2 other members with lived experience as victims of crime have been appointed as members, who wish to remain confidential.

*Mr Cannon tendered his resignation on Monday 11 March 2024.