

INQUIRY INTO SUPPORT PROVIDED TO VICTIMS OF CRIME

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Confidential

Committee Secretary
Legal Affairs and Safety Committee
Parliament House
George Street
Brisbane Qld 4000

By email: lasc@parliament.qld.gov.au

Dear Committee Secretary

Inquiry into support for victims of crime

Thank you for the opportunity to provide a submission in relation to the Inquiry into Support for Victims of Crime (**Inquiry**). The Queensland Law Society (**the Society**) appreciates being consulted on this important Inquiry.

The Society is the peak professional body for the State's legal practitioners. We represent and promote over 14,000 legal professionals, increase community understanding of the law, help protect the rights of individuals and advise the community about the many benefits solicitors can provide. QLS also assists the public by advising government on improvements to laws affecting Queenslanders and working to improve their access to the law.

This response has been compiled by the Society's Criminal Law Committee, whose members have substantial expertise in this area.

The Society commends the increasing attention that has been given to ways to reduce or prevent criminal offending by way of restorative justice mechanisms. This submission is focused on the merit in the expansion and adequate resourcing of Adult Restorative Justice Conferencing (**ARJC**) in the criminal justice system in Queensland. To this end, the Society notes that in the Queensland Government's response to the report of the Queensland Women's Safety and Justice Taskforce, Hear Her Voice – Report Two, the government has supported or supported in principle a number of recommendations in relation to adult restorative justice initiatives including exploring options for the development of a sustainable long-term plan for the expansion of adult restorative justice services in Queensland and corresponding legislative framework.

The Society's and its Criminal Law Committee members' view is that restorative justice initiatives now play an increasingly important role in the criminal justice system, and are a central means of empowering victims and meaningfully redressing the impact of crime on victims. However, the system needs to be properly funded and a clearer legislative framework

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developed to underpin it. The Society's and its member's further views in relation to this are discussed below.

It has long been acknowledged that the criminal law is a blunt instrument for addressing the root causes of offending and/or for addressing the harm to victims. Criminal convictions and sentences punish an offender, exact retribution for their crime, express community denunciation and, to some extent, deter the offender and others from re-offending. However, the sentencing options of the criminal Court are limited. The formal criminal process is not specifically designed to facilitate the emergence of genuine remorse, insight into the impact on victims and empathy. These characteristics are perhaps the best prognosticators for prospects of rehabilitation and reducing the risk of recidivism.

Restorative justice processes were first employed, and are more prevalent, in relation to young offenders. However, initiatives such as AJRC are now firmly entrenched as an accepted and efficacious alternative to prosecution in main-stream adult criminal proceedings.

The ARJC process is voluntary, trauma-informed and victim-centric. The process seeks to strike a balance between the rights and interests of victims of crime and the interests of an offender in making available a diversionary mechanism as an alternative to conviction and sentence.

In relation to youth restorative justice programs, our members' identified the primary barrier as the delay in the process. It is our members' strong view that the initial conciliation conference should be held within seven days of an order being made. Currently, there is no specified time period for a conference to be held. In our members' experience, this delays the benefit of restorative justice processes insofar as it also impacts the engagement of other support services that are required to identify a child's needs.

The Society sees great value in the expansion of Court ordered restorative justice conferencing in adult matters. Currently, the Society is aware that delay in the order of 6-8 months commonly attends referrals to ARJC. Further, ARJC is only available in certain metropolitan districts of the criminal courts in Queensland. Victims and offenders in regional areas are deprived of the option of ARJC. It is understood that these limitations, including the delay, are a function of understaffing and underfunding of the ARJC system, which are further amplified by a notable increase in the referral rates to ARJC.

The Society recommends that there be a significant increase in the allocation of funding and emphasis to the current ARJC process, with a view to expanding the reach of the program beyond metropolitan courts in Brisbane to rural, regional and remote areas in Queensland. The Society also recommends that any expansion of the program be underpinned by legislative codification, designed to entrench the principles of voluntary participation, accountability, prioritising the needs of the person harmed, safety and respect, confidentiality, transparency, an integrated justice response and clear governance. These principles are cognate to those recommended in the Victorian principle-based scheme.¹

Consistent with previous submissions, it is also the Society's view that, in order to ensure victims of crime are able to make informed decisions about options available to them, they should also

¹ Victorian Law Reform Commission, *Improving the Justice System Response to Sexual Violence* (Report, September 2021 [9.64])

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be given adequate time and information to make a fully informed choice as to whether they wish to participate in any restorative justice process.

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

Yours faithfully

[REDACTED]

Chloe Kopilovic
President