



Victims' Commissioner and Sexual Violence Review Board Bill 2024

**Report No. 9, 57th Parliament
Community Safety and Legal Affairs Committee
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Community Safety and Legal Affairs Committee

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All web address references are current at the time of publishing.

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Chair's foreword

This report presents a summary of the Community Safety and Legal Affairs Committee's examination of the Victims' Commissioner and Sexual Violence Review Board Bill 2024.

The committee's task was to consider the policy to be achieved by the legislation and the application of fundamental legislative principles – that is, to consider whether the Bill has sufficient regard to the rights and liberties of individuals, and to the institution of Parliament. The committee also examined the Bill for compatibility with human rights in accordance with the *Human Rights Act 2019*.

This Bill takes important steps in providing recognition and support to victims of crime. In establishing a permanent Victims' Commissioner, the Bill addresses systemic issues relating to how victims of crime are treated. Too often, victim-survivors have reported feeling retraumatised and unsupported by the criminal justice system. It is time to change this.

Through the establishment of the Sexual Violence Review Board, the Bill also provides a means to address systemic issues relating to the reporting, investigation, and prosecution of sexual offences. One in 5 women and one in 20 men have experienced sexual violence. As few as 13 percent of sexual assaults are reported to police. This alarming statistic is not totally surprising because of the traditionally taboo nature of sexual violence and because the experience, from police to jury trial and verdict, has been described by the Chair of the Women's Safety and Justice Taskforce as 'traumatising, confusing, disempowering and slow'.

I am proud to be part of a government that has taken real, concrete steps to address these serious social issues.

On behalf of the committee, I thank those individuals and organisations who made written submissions on the Bill. I also thank our Parliamentary Service staff and the Department of Justice and Attorney-General.

I commend this report to the House.



Peter Russo MP

Chair

Recommendations

Recommendation 1

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The committee recommends the Victims' Commissioner and Sexual Violence Review Board Bill 2024 be passed.

Recommendation 2

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The committee recommends that consideration be given to whether the complaints mechanism in the Bill is sufficient in relation to the ability of children to make a complaint where they lack an advocate or willing adult to make a complaint on their behalf.

Executive Summary

On 6 March 2024, the Hon Leanne Linard, Minister for the Environment and the Great Barrier Reef and Minister for Science and Innovation, introduced the Victims' Commissioner and Sexual Violence Review Board Bill 2024 into the Queensland Parliament. The Bill was referred to the Community Safety and Legal Affairs for detailed consideration.

The Bill seeks to implement key recommendations of the second report of the Women's Safety Justice Taskforce and would establish:

- the Victims' Commissioner (and Office of the Victims' Commissioner) to promote and protect Victims' Rights, and
- the Sexual Violence Review Board (Board) with a main function of identifying and reviewing systemic issues in relation to the reporting, investigation, and prosecution of sexual offences.

Stakeholders and subscribers were invited to make written submissions on the Bill and the committee received 15 submissions. A public hearing was held on 25 March 2024 in Brisbane to speak with submitters. A public briefing was also held that day with representatives from the Department of Justice and Attorney-General.

The key issues raised during the committee's examination of the Bill included:

- functions of the Victims' Commissioner and the Board
- the application and review of the Charter of Victims' Rights
- the appointment criteria and independence of the Victims' Commissioner and the Board from government
- access to information provisions
- the complaints mechanism within the Charter of Victims' Rights.

The committee is satisfied that the Bill gives sufficient regard to the rights and liberties of individuals and the institution of Parliament, and that any limitations of human rights, as set out in the *Human Rights Act 2019*, are reasonable and justifiable.

The committee recommends the Bill be passed.

1 Introduction

1.1 Referral

On 6 March 2024, the Hon Leanne Linard MP, Minister for the Environment and the Great Barrier Reef and Minister for Science and Innovation, on behalf of the Hon Yvette D'Ath MP, Attorney-General and Minister for Justice and Minister for the Prevention of Domestic and Family Violence, introduced the Victims' Commissioner and Sexual Violence Review Board Bill 2024 (Bill) into the Queensland Parliament. The Bill was referred to the Community Safety and Legal Affairs Committee (committee) for detailed consideration.

1.2 Background

Recent inquiries have supported the establishment of an independent Victims' Commissioner to promote and protect the needs and rights of victims of crime and the establishment of a sexual violence case review board, to be chaired by the Victims' Commissioner, with a function to review sexual violence matters.¹

1.2.1 Women's Safety Justice Taskforce Report No. 2

The Bill partially implements recommendations 18, 19, 46 and 181 of the Women's Safety and Justice Taskforce (Taskforce) Report no. 2, *'Hear Her Voice – Report 2 – Women and girls' experience in the criminal justice system'* (WSJTR No. 2) released on 1 July 2022.

The report made 188 recommendations and examined the barriers faced by Queensland women and girls accessing the criminal justice system, both as victims and as offenders.² The Taskforce noted that there is increasing recognition of victims as integral players in the criminal justice system, rather than mere bystanders.³

The explanatory notes state that moves towards this have already occurred in Queensland with the enactment of the *Charter of Victims' Rights* (Charter) and the establishment of Victim Assist Queensland (VAQ). These have provided victims with the ability to provide victim impact statements and written statements for consideration by the Parole Board of Queensland. Additional measures to support witnesses in giving evidence in court proceedings have also been implemented.⁴

1.2.2 Commission of inquiry

The Queensland Government established the *Independent Commission of Inquiry into Queensland Police Service responses to domestic and family violence* (Commission of Inquiry). The Commission of Inquiry was established as part of the Queensland Government's response to the recommendations of the Taskforce's first report – *Hear her voice – Report One – Addressing coercive control and domestic and family violence in Queensland*.

The Commission of Inquiry made 78 recommendations in its report, 'A call for change', including that the Queensland Government establish a Victims' Commissioner as an independent statutory officer. That recommendation also provided that the Victims' Commissioner should, at a minimum, assist individual victim-survivors of domestic and family violence, including in relation to complaints about

¹ Explanatory notes, pp 1-3; Women's Safety and Justice Taskforce (Taskforce) Report no. 2, *'Hear Her Voice – Report 2 – Women and girls' experience in the criminal justice system'* (WSJTR No. 2), recommendation 46.

² WSJTR No. 2, p vi.

³ WSJTR No. 2, p 137.

⁴ Explanatory notes, p 1.

poor police responses to domestic and family violence, and work towards identifying systemic trends and issues in relation to this.⁵

1.2.3 Legal Affairs and Safety Committee Inquiry into support provided to victims of crime

On 19 May 2023, the Legal Affairs and Safety Committee (LASC) tabled its report into the support provided to victims of crime.

The inquiry's terms of reference included how to achieve better coordination of services for victims, ensuring victims were heard and included during the criminal justice process, the functions and effectiveness of the *Victims of Crime Assistance Act 2009* and the impacts of any recommendations.⁶

The committee made 18 recommendations for government. These included recommendations for reviews of victims' rights, improved coordination of services, increasing access to information, trauma-informed training, investing in victim support services and improving access to restorative justice and youth justice conferencing. The report also supported the Taskforce's recommendation to establish a statutory role of a Victims' Commissioner in Queensland and a review of the Charter by the Victims' Commissioner, once established.⁷

1.3 Policy objectives of the Bill

Minister for the Environment and the Great Barrier Reef and Minister for Science and Innovation, Introduction speech



The bill will seek to establish a permanent Victims' Commissioner to promote the rights of victims. The bill will establish the Sexual Violence Review Board, which will identify systemic issues in relation to the reporting, investigation, and prosecution of sexual offences. These two important initiatives were recommended by the Women's Safety and Justice Taskforce in its second report *Hear her voice— report two: Women and girls' experiences across the criminal justice system*. The establishment of a Victims' Commissioner was also supported by the Independent Commission of Inquiry into Queensland Police Service Responses to Domestic and Family Violence and the Legal Affairs and Safety Committee inquiry into the support provided to victims of crime.

The taskforce heard that victim-survivors often felt disempowered in the criminal justice system, sometimes resulting in secondary victimisation, and that this can deter victims from reporting. It noted that there is no single independent body responsible for identifying and monitoring systemic issues or issues of concern and no oversight of complaints made about compliance with the Charter of Victims' Rights.⁸

The Bill's policy objectives of the Bill are to:

- establish the Victims' Commissioner to promote and protect victims' rights
- declare a Charter for affected victims, and
- establish the Sexual Violence Review Board (Board) to identify and review systemic issues in relation to the reporting, investigation, and prosecution of sexual offences.

1.4 Legislative compliance

The committee's deliberations included assessing whether or not the Bill complies with the Parliament's requirements for legislation as contained in the *Parliament of Queensland Act 2001*, *Legislative Standards Act 1992* (LSA) and the *Human Rights Act 2019* (HRA).

⁵ Explanatory notes, p 2.

⁶ Queensland Parliament, Record of Proceedings, 16 March 2023, p 589.

⁷ Explanatory notes, p 3.

⁸ Record of Proceedings, 6 March 2024, p 483.

1.4.1 *Legislative Standards Act 1992*



Fundamental legislative principles require that legislation has sufficient regard to the rights and liberties of individuals and the institution of Parliament.⁹

The committee's assessment of the Bill's consistency with the LSA considered potential issues relating to following fundamental legislative principles raised by the Bill:

- regarding rights and liberties of individuals:
 - penalties being proportionate to the offence
 - principles of natural justice
 - reversal of onus of proof
 - appropriate protection against self-incrimination
 - immunity from proceeding or prosecution
- sufficient regard to the institution of Parliament
 - delegation of powers.

Committee comment

The committee is satisfied the Bill gives sufficient regard to the rights and liberties of individuals and the institution of Parliament. Any relevant considerations of fundamental legislative principles are discussed in section 2 of this report.

1.4.2 *Human Rights Act 2019*



A law is compatible with human rights if it does not limit a human right or limits a human right only to the extent that is reasonable and demonstrably justifiable.¹⁰

The committee's assessment of the Bill's compatibility with the HRA considered the potential issues and limitations relating to the following human rights raised by the Bill:

- taking part in public life (HRA, section 23)
- privacy and reputation (HRA, section 25)
- liberty and security of person (HRA, section 29).¹¹

Committee comment

The committee is satisfied that any potential limitations on human rights proposed by the Bill are demonstrably justified. Any relevant considerations of human rights issues are discussed in section 2 of this report.

A statement of compatibility was tabled with the introduction of the Bill as required by section 38 of the HRA. The statement contained a sufficient level of information to facilitate understanding of the Bill in relation to its compatibility with human rights.

⁹ LSA, s 4(2).

¹⁰ HRA, s 8.

¹¹ Statement of compatibility, p 2.

1.5 Should the Bill be passed?

The committee is required to determine whether or not to recommend that the Bill be passed.

Recommendation 1

The committee recommends the Victims' Commissioner and Sexual Violence Review Board Bill 2024 be passed.

2 Examination of the Bill

This section discusses key issues raised during the committee's examination of the Bill. It does not discuss all consequential, minor or technical amendments.

2.1 Victims' Commissioner

The proposed establishment of the Victims' Commissioner in the Bill partially implements recommendation 18 of WSJTR No. 2. The Taskforce considered a Victims' Commissioner was needed to protect and promote victims' rights in Queensland because there was no single independent body responsible for identifying and monitoring systemic issues, or issues of concern for victims of crime. There was also no oversight of complaints about compliance with the Charter nor any mechanism to enforce compliance.¹²

Recommendation 18, WSJTR No. 2



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 Australia).

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.

2.1.1 Functions

Clause 9 of the Bill outlines the Victims' Commissioner's functions, which are to:

- identify and review systemic issues relating to victims
- conduct research into matters affecting victims, including particular cohorts of victims
- consult in relation to matters relating to victims, including a person's experience as a victim and their experience in the criminal justice system
- deal with complaints about alleged contraventions of the Charter
- publish information in relation to the criminal justice system
- promote the 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
- 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, and

¹² Explanatory notes, p 1.

- monitor the implementation of recommendations made by the Victims' Commissioner.¹³

The Victims' Commissioner's functions, except its complaint function, apply to all victims of crime.¹⁴ The definition of 'victim' is outlined at clause 6 of the Bill and, beyond the person who suffers harm, also includes their family members, dependants or a person who suffered harm as a direct result of intervening to help a person who had domestic violence committed against them.¹⁵

2.1.1.1 *Stakeholder views*

Multicultural Australia raised that there are significant barriers posed by language and culture to the reporting of sexual violence offences in particular and the stigma of crimes and identifying oneself as a victim. The organisation noted the systemic review function of the Victims' Commissioner in particular will assist in breaking the multilayered barriers to multicultural victims accessing justice.¹⁶ The Queensland Family and Child Commission (QFCC) supported the appointment of the Victims' Commissioner, and the Victims' Commissioner's remit in identifying and developing accessible resources to provide greater access to victim-survivors to understand their rights.¹⁷

The Independent Ministerial Advisory Council (IMAC) submitted that the definition of victim should be broadened to include a reference to a child or young person as a victim (in their own right).¹⁸ The Queensland Sexual Assault Network (QSAN) and the Gold Coast Centre Against Sexual Violence Inc submitted that they were concerned that the definition of victim was too broad and should be narrowed to only victims of violent offences.¹⁹ At the hearing, both DVConnect and QSAN stated that they felt the consequences of the definition as it stands will lead to resourcing issues for services, and for the Victim's Commissioner in particular, and victims will 'fall through the cracks'.²⁰

Ending Violence Against Women Queensland (EVAWQ) summarised their concerns regarding resourcing issues for services as:

EVAWQ are concerned that the unique vulnerabilities of victims survivors of [domestic, family and sexual violence] will not be adequately supported within a broad and overarching definition of Victim, and role of the Victims Commissioner.

...

EVAWQ are further concerned about the potential consequences of utilising the limited allocated resources for systems reform to respond to the Hear Her Voice recommendations intended primarily to improve the experiences for victim survivors of domestic, family and sexual violence to benefit a broader overarching group of victims. This concern is heightened by the current environment of resource scarcity in the face of ever-increasing demand.²¹

Several submitters raised the importance of the Victims' Commissioner conducting community engagement and consultation so those most in need of the services are firstly aware of them and secondly willing to engage with them. Some victims may be aware of the services but due to a lack of trust in or fear of the system, they may not be willing to engage with the service.²²

¹³ Explanatory notes, p 3.

¹⁴ Department of Justice and Attorney-General (DJAG), correspondence, 18 March 2024, p 2.

¹⁵ Bill, cl 6(1)-(5). The definition of 'harm' is outlined at clause 6(7).

¹⁶ Public hearing transcript, Brisbane, 25 March 2024, p 3.

¹⁷ QFCC, submission 12, p 1.

¹⁸ IMAC, submission 15, p 6.

¹⁹ QSAN, submission 4, p 5; Gold Coast Centre Against Sexual Violence Inc, submission 5, p 3.

²⁰ Public hearing transcript, Brisbane, 25 March 2024, p 13 and 26.

²¹ EVAWQ, submission 6, p 2.

²² Multicultural Australia, submission 9; LawRight, submission 10; Queensland Indigenous Family Violence Legal Service, submission 13.

Multicultural Australia raised the success of a settlement program in Toowoomba where one of the first things refugees do when they arrive is have a meeting with the local police in an attempt to begin to break the barrier of fear of interacting with law enforcement.²³ Multicultural Australia also raised that it was important for engagement to occur at all levels, from grassroots level community organisations, all the way through to mainstream services.²⁴

Multicultural Australia suggested that the Victims' Commissioner could extend upon this by publishing resources in various languages and circulating them to places in the community such as faith and community centres. This would assist to increase awareness of services.²⁵

2.1.1.2 Department response

The Department of Justice and Attorney-General (DJAG/department) responded to several submissions in relation to expanding the scope of the Victims' Commissioner's functions. In response to Domestic Violence Prevention Centre Gold Coast's submission that the Victims' Commissioner should have a function 'to advocate for the recognition, inclusion, participation and respect of victims of crime by government departments, bodies responsible for conducting public prosecutions and the Queensland Police Service',²⁶ DJAG noted that while the wording may not be exactly the same as other jurisdictions, the functions and powers in this Bill are considered to align with the intent of the function as prescribed in section 9 of the Victorian *Victims of Crime Commissioner Act 2015*.²⁷

Both QSAN and knowmore submitted that the Queensland model should mirror that practiced in South Australia where the Victims' Commissioner is given very specified powers such as 'the ability to assist victims in their dealings with government agencies across the criminal justice system, including through oversight of how agencies respond to complaints'.²⁸ In response, DJAG outlined the role of the Charter in Queensland and the impact mirror legislation would have:

Providing powers to the Victims' Commissioner to intervene or represent individuals in a particular proceeding would impact on the:

- systemic focus of the Victims' Commissioner; and
- current rights afforded to victims under the Charter and in the criminal justice system in Queensland.

Unlike the approaches for providing services to victims used in other jurisdictions, the Charter in Queensland provides general rights for victims and specific rights for victims engaged in the criminal justice system. This is because victims of crime are considered participants in the criminal justice process rather [than] being considered a party to the proceeding who can intervene or be involved in determining the charges or conduct of a particular proceeding.

This is in contrast to jurisdictions, such as South Australia, where the *Victims of Crime Act 2001* (SA) provides rights to victims of crime which include a requirement that a prosecuting agency consult with the victim about the decision to charge an offender with a particular offence ... and enables a victim of crime to request the prosecuting agency to consider an appeal where the victim is dissatisfied with the outcome of the proceeding ... These rights expand the status of the victim in a criminal proceeding from that of a participant to a form of party or quasi-party to the proceeding that is empowered to provide input to the decision-making associated with a proceeding.

²³ Public hearing transcript, Brisbane, 25 March 2024, p 3.

²⁴ Public hearing transcript, Brisbane, 25 March 2024, p 4.

²⁵ Public hearing transcript, Brisbane, 25 March 2024, p 4.

²⁶ Domestic Violence Prevention Centre Gold Coast, submission 3, p 3; s9, *Victims of Crime Commissioner Act 2015* (VIC).

²⁷ DJAG, correspondence, 21 March 2024, p 2.

²⁸ QSAN, submission 4, p 6; knowmore, submission 7, p 2.

Any matters relating to how a proceeding is progressed through the criminal justice system will remain within the remit of the Queensland Police Service, Director of Public Prosecutions, and the judicial system. Any issues raised by a victim about a sentencing outcome or other matters associated with the merits of a proceeding will be addressed through the existing legislative and legal appeal mechanisms.²⁹

In response to requests for the definition of victim being expanded to specifically include children and young people³⁰ and 'family' as including Aboriginal kinship relationships,³¹ DJAG noted these 'classes' of people, are, by nature of their status as a victim of crime, within the remit of the Victims' Commissioner. In particular, clause 11 of the Bill outlines that the Victims' Commissioner must have regard to the specific vulnerabilities of victims who are children or identify as Aboriginal and/or Torres Strait Islander.³²

2.1.2 Charter of Victims' Rights

Clause 125 of the Bill removes the Charter from the *Victims of Crime Assistance Act 2009* and re-establishes it in chapter 3 and schedule 1 of the Bill. The Charter outlines:

- the appropriate treatment of victims, such as the right to be treated with respect and dignity, and the right to privacy
- the right to be given information about services that can help victims recover
- rights in the criminal justice system
- the right to be kept informed of the progress of a police investigation and any prosecution
- rights when attending court as a witness
- the right to make a victim impact statement for the court to consider during sentencing of an offender if they are found guilty
- rights when an offender is imprisoned
- the right to make a complaint if these rights are not upheld.³³

Since his appointment on 2 September 2023, the Interim Victims' Commissioner has supported the development of online material for victims of crime, such as an easy-read version of the Charter in English, to support victims who may have lower literacy levels to understand their rights under the Charter in performance of their responsibility to raise awareness of the services available to victims.³⁴

2.1.2.1 Stakeholder views

LawRight explained that they 'barely [engage] with the charter ... because there are basically no practical outcomes that can come from it'.³⁵ In their view, the Charter 'adds to a level of stress'. Multicultural Australia holds a view that victims can become invisible to services where engagement is minimal.³⁶ The Queensland Indigenous Family Violence Legal Service (QIFVLS) supported the implementation of the Charter but recommended that consideration be given to enhancing it 'by

²⁹ DJAG, correspondence, 21 March 2024, p 3.

³⁰ IMAC, submission 15, p 6.

³¹ Domestic Violence Prevention Centre Gold Coast, submission 3, p 2.

³² DJAG, correspondence, 21 March 2024, p 7.

³³ <https://www.victimscommissioner.qld.gov.au/know-your-rights>

³⁴ DJAG, written brief, p 2.

³⁵ Public hearing transcript, Brisbane, 25 March 2024, p 9.

³⁶ Multicultural Australia, submission 9, pp 2-3.

inserting a requirement for prescribed persons to consider and be responsive to the needs of affected victims from a variety of backgrounds'.³⁷

LawRight submitted that the Commissioner should undertake a review of the Charter, but given the independence of the Victims' Commissioner to the government, they encourage the government to consider how it may ensure the Victims' Commissioner conducts such a review.³⁸

2.1.2.2 Department response

In relation to LawRight's submission that a review of the Charter should be legislated in the Bill, DJAG noted that recommendation 19 of the WSJTR No. 2 was that the Victims' Commissioner undertake this review. DJAG noted the Queensland Government's support of this recommendation when the first report was released and advised that the Attorney-General intends to write to the Victims' Commissioner, once properly established, in support of the recommendation. Accordingly, DJAG do not consider it necessary to legislate a review process of the Charter.³⁹

2.1.3 Appointment and independence

Under the Bill, the Governor in Council would appoint the Commissioner on the recommendation of the Minister.⁴⁰ The Minister may only recommend a person for appointment if the Minister is satisfied the person fulfils a range of eligibility criteria in clause 14(2) and none of the exclusionary criteria in clause 15, including that the person must consent to the Minister requesting a report about the person's criminal history under section 23.⁴¹ The Bill provides that the Victims' Commissioner represents the State but is not a statutory body for the purpose of the *Financial Accountability Act 2009* or the *Statutory Bodies Financial Arrangements Act 1982*.⁴²

2.1.3.1 Stakeholder views (appointment)

In relation to the scope of criminal history requested and the exclusionary criteria in clause 15, Domestic Violence Prevention Centre Gold Coast submitted that this clause should be amended to specifically state that a person is disqualified from holding the position of Victims' Commissioner if found guilty of a domestic violence offence.⁴³ DVConnect also submitted that a potential appointee should be compelled to disclose whether they are a party to a domestic violence order.⁴⁴

Domestic Violence Prevention Centre Gold Coast listed 3 amendments to the Bill they believe are required to 'truly serve and uphold the rights of victims', specifically in relation to the selection criteria of the Victims' Commissioner:⁴⁵

- the person has a demonstrated understanding of and experience in systemic advocacy for the rights of victims of crime
- the person has a demonstrated understanding of the intersecting needs of First Nations people, domestic and sexual violence victim survivors and other victims of crime, and

³⁷ QIFVLS, submission 12, p 3.

³⁸ LawRight, submission 10, p 11.

³⁹ DJAG, correspondence, 21 March 2024, p 8.

⁴⁰ Bill, cl 14(1).

⁴¹ Bill, cl 15(d).

⁴² Bill, cls 8, 13.

⁴³ Domestic Violence Prevention Centre Gold Coast, submission 3, p 2.

⁴⁴ DVConnect, submission 8, p 7.

⁴⁵ Domestic Violence Prevention Centre Gold Coast, submission 3, p 2.

- the appointment is endorsed by the Chairs of the Independent Ministerial Advisory Council (IMAC) and the Chair of the Aboriginal and Torres Strait Islander Panel.⁴⁶

QSAN submitted that an appointment model similar to that utilised in the Northern Territory should be used to ensure the model is for an independent statutory officer as recommended by the Women's Safety and Justice Taskforce. This would require establishment of an advisory panel to make the appointment.⁴⁷

Several submitters took issue with the independence of the Victims' Commissioner and noted clauses 8 and 13 of particular concern for them. DVConnect stated that they believed clause 13 would mean the Victims' Commissioner is not truly independent because they are inhibited from managing their own financial affairs and that they are effectively public servants by virtue of clause 8.⁴⁸

Gold Coast Centre Against Sexual Violence Inc. submitted that true independence is essential to 'build victim/survivor and community trust and confidence in the process'.⁴⁹ They were also concerned that the model proposed in the Bill is not truly reflective of recommendation 18 of the WSJTR No. 2 as it does not include the role of a deputy commissioner to provide a dedicated focus to particularly vulnerable groups.⁵⁰ DVConnect shared these concerns in relation to the absence of the role of a deputy commissioner in saying that the support some victims require is specialised because of 'the vulnerabilities and barriers you have when you experience some types of crime ... and the way the community considers them are more challenging and therefore do need a laser-like focus'.⁵¹

2.1.3.2 Department response

Appointment criteria

In relation to submitters' concerns regarding appointment criteria and the suitability of the appointee, DJAG noted the requirement within clause 14(2)(b) that the Minister must be satisfied that the person is appropriately qualified to work with victims and to perform the functions of that role as outlined in clause 9. In relation to concerns expressed by Domestic Violence Prevention Centre Gold Coast Inc that it should be legislated that the Victims' Commissioner has a demonstrated understanding of the rights and needs of victims, DJAG noted that 'as the Victims' Commissioner has functions which include consulting in relation to matters relating to victims (clause 9(c)) and advocating on behalf of victims (clause 9(f)), it is intended that a person recommended for appointment as the Victims' Commissioner would have skills in these areas'.⁵²

Disqualification from appointment

In response to requests that a person should be disqualified for appointment if they have been found guilty of any domestic or sexual violence offence, including failure to report sexual offences against children, DJAG outlined the requirements in clause 15 of the Bill which include a person being disqualified if found guilty of an indictable offence which includes sexual assault, rape and some domestic violence offences.⁵³ The department also noted the criteria is consistent with other

⁴⁶ Domestic Violence Prevention Centre Gold Coast, submission 3, p 2. The submission also notes that IMAC has been established to put victims' voices at the heart of the criminal justice system reform and the Aboriginal Torres Strait Islander Panel provides advice to the Queensland Sentencing Advisory Council.

⁴⁷ QSAN, submission 4, p 3.

⁴⁸ Public hearing transcript, Brisbane, 25 March 2024, p 27.

⁴⁹ Gold Coast Centre Against Sexual Violence Inc., submission 5, p 2.

⁵⁰ Gold Coast Centre Against Sexual Violence Inc., submission 5, p 2.

⁵¹ Public hearing transcript, Brisbane, 25 March 2024, pp 13-14.

⁵² DJAG, correspondence, 21 March 2024, p 8.

⁵³ DJAG, correspondence, 21 March 2024, p 8.

legislation in Queensland for members of the Domestic and Family Violence Death Review and Advisory Board and members of the Queensland Sentencing and Advisory Council.⁵⁴

Information required to be disclosed

In response to requests from submitters that potential appointees should be compelled to advise when they are named on a relevant DFV or protection order anywhere in Australia, DJAG accepted that the Bill does not provide the Minister with the ability to request the domestic violence history of a person, but that this was consistent with appointment criteria for similar entities in other legislation.⁵⁵

Independence of the appointment

DJAG reiterated that the appointment of the Victims' Commissioner is indeed an independent statutory appointment, and that the Victims' Commissioner must act independently and in the public interest pursuant to the provisions in the Bill. The department advised that they will not be subject to any direction by any person, including the Minister (clause 11), they will have total control of the Office and staff of the Office will also not be subject to direction by any other person (clauses 26 and 27).

DJAG acknowledged QSAN and Gold Coast Centre Against Sexual Violence Inc's particular concern with clause 8 of the Bill. In response, they noted that the conferral of the status, privileges and immunities of the State upon the Victims' Commissioner does not impact on the independence of the Victims' Commissioner and the exercise of their functions and powers.⁵⁶

Appointment of a deputy commissioner

In response to queries regarding whether or not the appointment of a deputy commissioner was something that had been considered, DJAG responded that, while the role of a deputy commissioner is not legislated, there is nothing in the Bill to prohibit the Victims' Commissioner from creating that role in the establishment of their office.⁵⁷

2.1.4 Consistency with fundamental legislative principles

2.1.4.1 Penalties

The Bill introduces an offence in relation to the failure to disclose charges and convictions by the Victims' Commissioner or member of the Board.⁵⁸ According to the explanatory notes, the offences and associated penalties are justified because they reinforce the expectation that the Victims' Commissioner is to uphold ethical and legal standards in carrying out their functions.⁵⁹ Similar offences, and penalty provisions, are included in other Queensland legislation such as the *Coroners Act 2003*,⁶⁰ *Health and Wellbeing Queensland Act 2019*⁶¹ and *Racing Integrity Act 2016*.⁶²

The Bill also introduces 3 offences in relation to requests by the Victims' Commissioner or chairperson of the Board, to entities for information.⁶³ The explanatory notes emphasise that the basis for these

⁵⁴ DJAG, correspondence, 21 March 2024, p 8.

⁵⁵ DJAG, correspondence, 21 March 2024, p 8.

⁵⁶ DJAG, correspondence, 21 March 2024, p 8; Public briefing transcript, 25 March 2024, p 4.

⁵⁷ Public briefing transcript, Brisbane, 25 March 2024, p 4.

⁵⁸ Bill, cls 24 and 78.

⁵⁹ Explanatory notes, p 16.

⁶⁰ Section 91R.

⁶¹ Section 45.

⁶² Section 252BO.

⁶³ Bill, cl 29, 51 and 86.

offences is to ensure the Victims' Commissioner and the Board have the information required to fulfil their functions under the proposed Act.⁶⁴

Committee comment

The committee acknowledges the issues raised by stakeholders in relation to the appointment criteria and independence of the Victims' Commissioner and the Board from government. The committee notes the advice from DJAG that the appointment criteria is consistent with other legislation and the Bill provides for the independent operation of the Victims' Commissioner and the Office of the Victims' Commissioner. Overall, the committee is satisfied with the appointment criteria provided for in the Bill and that the Victims' Commissioner is an independent statutory appointment.

As regards the offences and their corresponding penalties, we consider the penalties are relevant and proportionate, noting that they appear generally consistent with those for like offences in other Queensland legislation.

2.2 Sexual Violence Review Board

The primary function of the Board, outlined at clause 62(1) would be to 'identify and review systemic issues in relation to the reporting, investigation, and prosecution of sexual offences'.⁶⁵ The Board would also have the following functions:

- (a) to review government policy, practices, procedures, and systems to identify systemic issues
- (b) to review and analyse data and information held by government entities and non-government entities
- (c) to 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 mentioned in paragraph (a) or (b), and
- (d) to monitor the implementation of recommendations mentioned in paragraph (c).⁶⁶

The Board would be established to implement recommendation 46 of the WSJTR No. 2. It has a purposefully broad scope which 'is intended to allow it to review any part of the criminal justice system in relation to a sexual offence, ranging from a victim-survivor's initial reporting of an alleged offence to an entity, such as a health service, support service or the police, to the conduct of a court proceeding'.⁶⁷

2.2.1 Membership of the Board

Clauses 67 to 69 provide that the Board would be chaired by the Victims' Commissioner and consist of 8 other people as follows:

- 4 government members, being:
 - the Police Commissioner or nominee
 - the Director of Public Prosecutions or nominee
 - one public sector employee who is appropriately qualified in forensic services or clinical forensic medicine
 - one public sector employee who is appropriately qualified in matters relating to the court system.

⁶⁴ Explanatory notes, p 11. See also Bill, cls 9, 62 (proposed Act, ss 9, 62).

⁶⁵ Bill, cl 62(1).

⁶⁶ Bill, cl 62(2).

⁶⁷ Explanatory notes, p 6.

- up to 4 non-government members who have skills, knowledge and experience in one or more of the following areas:
 - professional expertise in the field of sexual offence matters
 - providing support services to victims of sexual violence, and
 - as a victim of sexual violence, including, for example, experience as a victim in the criminal justice system.

The explanatory notes also state:

The membership of the Board will be required to reflect the social, cultural and linguistic diversity of the Queensland community, and must include at least one person who has lived experience as a victim of sexual violence and at least one member who is an Aboriginal person or Torres Strait Islander person (clause 69).⁶⁸

Additionally, clause 71 of the Bill provides for the Minister to appoint a Deputy Chairperson, who must be one of the appointed non-government members.⁶⁹

2.2.1.1 Stakeholder views

A range of submitters expressed concern with the membership requirements for the Board. Legal Aid Queensland are particularly concerned with the lack of a requirement in the Bill for appointment of a member to the Board with legal experience.⁷⁰ The Public Advocate suggested that the Board should include a member of the community with lived experience of disability due to the overrepresentation of disabled people in sexual assault statistics.⁷¹ QSAN, Domestic Violence Prevention Centre Gold Coast and Gold Coast Centre Against Sexual Violence Inc. submitted that they were concerned that there was no legislated requirement for a board member to have experience in dealing with domestic and sexual violence cases. QIFVLS supported the implementation of clause 69(1) requiring the Minister to ensure an Aboriginal or Torres Strait Islander person was a member of the Board but 'given the available data regarding Aboriginal and Torres Strait Islander victims of crime, they would hope the Board is not limited to the mandated one identified member'.⁷²

All submitters that suggested changes relating to membership of the Board said these were necessary to accurately reflect the diverse community of Queensland and noted the benefits of increased representation at high levels in breaking down the barriers that marginalised people face in accessing justice.⁷³

2.2.1.2 Department response

DJAG reiterated that the requirements outlined in clause 69(5)(a) require the Minister to ensure that the appointed members reflect the social diversity of the Queensland community, such as those with a disability, lived experience of sexual assault and/or legal experience.⁷⁴ The department also confirmed that it is intended that more than one member of the Board may be an Aboriginal or Torres Strait Islander person.⁷⁵

⁶⁸ Explanatory notes, p 7. See also Bill, cl 69(5).

⁶⁹ Explanatory notes, p 7.

⁷⁰ Legal Aid Queensland, submission 11, p 3.

⁷¹ The Public Advocate, submission 1, p 1.

⁷² QIFVLS, submission 13, p 6.

⁷³ Legal Aid Queensland, submission 11, p 3; The Public Advocate, submission 1, p 1; QIFVLS, submission 13, p 6.

⁷⁴ DJAG, correspondence, 21 March 2024, p 10.

⁷⁵ DJAG, correspondence, 21 March 2024, p 10.

Committee comment

The committee acknowledges that many submitters acknowledged the over-representation of marginalised groups as victims of crime. The committee also notes specific concerns that, given the over-representation of Aboriginal and Torres Strait Islander people, the requirement for at least one member of the Board to be Aboriginal and/or Torres Strait Islander is a minimum. The committee appreciates advice from DJAG that it is intended that more than one member of the Board be Aboriginal or Torres Strait Islander and encourages that consideration be given to the diverse language and cultural groups of Queensland.

2.2.2 Functions of the Board**2.2.2.1 Stakeholder views**

Several submitters expressed concern with the Board's inability to conduct reviews of individual cases.⁷⁶ DVConnect stated that they believed it was important to expand the Board's review function from purely systemic issues to also include individual cases to ensure full accountability and that victims' voices are accurately represented.⁷⁷ knowmore recommended that clauses 9 and 62 be amended to clearly indicate that the Board has a function of being able to review individual cases and that this would 'help to address a common experience reported by clients of feeling marginalised or excluded from the criminal legal process'.⁷⁸

Multicultural Australia emphasised the importance of consultation with the public in order to warrant the effective operation of the Board and to ensure it is being responsive to the current needs of the community.⁷⁹ DVConnect submitted that the Board needed to ensure that inclusion and accessibility measures are implemented such as publishing clear and easy to understand information aimed at the wider community.⁸⁰ At the public hearing, DVConnect stated:

In terms of a public trust piece, we think it is very important for there to be clear public communications, for example, on a website ... in very simplified language telling victim-survivors how their information is going to be used, and that comes back to the overall empowerment piece as well in terms of information and privacy.⁸¹

DVConnect further stated that this knowledge will assist clients in regaining a sense of agency and control which they say is often lost in the criminal justice system.⁸²

2.2.2.2 Department response

DJAG confirmed that the Board will not have a function to review every sexual offence matter, but it will not be prohibited from being able to do so if relevant to the systemic issue that is being reviewed at the time.⁸³ The Board will also not be prohibited from reviewing the prosecution of a particular matter in detail if it raises systemic issues:

... it is intended that the Board may consider: the progress of an investigation of an alleged sexual offence and whether further investigation or prosecution of a person accused of committing the offence has been affected by an act or omission during the investigation; major decisions, and

⁷⁶ QSAN, submission 4, p 7; Gold Coast Centre Against Domestic Violence Inc., submission 5, p 4; knowmore, submission 7, p 2; DVConnect, submission 8, p 6.

⁷⁷ DVConnect, submission 8, p 5.

⁷⁸ knowmore, submission 7, p 2.

⁷⁹ Multicultural Australia, submission 9, p 1.

⁸⁰ Multicultural Australia, submission 9, p 1; DVConnect, submission 8, p 8.

⁸¹ Public hearing transcript, Brisbane, 25 March 2024, p 8.

⁸² Public hearing transcript, Brisbane, 25 March 2024, p 7.

⁸³ DJAG, correspondence, 21 March 2024, p 10.

reasons for the decisions, about the charges brought against a person accused of committing an alleged sexual offence, or not bringing charges against the accused; and major decisions, and reasons for the decisions, relating to the preparation and conduct of the prosecution, and conduct of the prosecution of a person accused of committing an alleged sexual offence.⁸⁴

2.2.3 Access to information

Clauses 29 and 86 empower the Victims' Commissioner and the Board to request information from 'prescribed entities', the definition of which, in schedule 1, covers both government and non-government entities which are funded by the Commonwealth or the State to provide services to a victim as their primary function.⁸⁵

2.2.3.1 Stakeholder views

DVConnect and LawRight were concerned that the access to information procedures in the Bill are lacking and may result in adverse consequences for victims of domestic violence.⁸⁶ They expressed the view that the identity of who the information can be shared with is unknown and that they were concerned that people accessing their services may be less inclined to do so if there was an obligation on those agencies to share information with the Victims' Commissioner or the Board.⁸⁷

DVConnect further suggested that the Bill be amended to empower a person to be able to provide consent for their information to be shared. At the public hearing, LawRight was queried about whether there would be any circumstance where it would be appropriate for the Victims' Commissioner or the Board to share the information in their possession, without the consent of a victim. LawRight stated they could not see any circumstance where it would be appropriate to do so.⁸⁸ They also raised their concern about perpetrators' abuse of the system and were concerned that the current information sharing provisions will perpetuate violence and limit their capacity to provide a service because people will be too frightened to access the services available to them for fear of a perpetrator gaining access to what they have shared.⁸⁹

2.2.3.2 Department response

Where submitters outlined concerns regarding information being shared without the consent of the victim, DJAG responded that they considered it necessary to ensure the Victims' Commission and the Board are fully informed of any issues impacting on victims of crime or the reporting, investigation, or prosecution of sexual offences. Further, that they believed there would be minimal impact arising from the disclosure of the information because the scope of how that information may be used is narrow and only for the purpose of assisting the Victims' Commissioner and the Board to achieve their functions.⁹⁰

DJAG advised that while the issuing of a subpoena is at the discretion of the Court, the department did not anticipate that a specific sexual assault counselling privilege is required. At the hearing, DJAG added that it would be within the remit of the Victims' Commissioner or the Board to decide not to share information with another party due to this reason and specifically noted the importance of these two entities operating as a 'vault' to information.⁹¹ They did, however, raise that the Victims' Commissioner and the Board are sometimes not the original receiver of these types of information

⁸⁴ DJAG, correspondence, 21 March 2024, p 10.

⁸⁵ Explanatory notes, p 9.

⁸⁶ DVConnect, submission 8, p 7; LawRight, submission 10, p 3, 6-8.

⁸⁷ Public hearing transcript, Brisbane, 25 March 2024, p 15.

⁸⁸ Public hearing transcript, Brisbane, 25 March 2024, p 10.

⁸⁹ Public hearing transcript, Brisbane, 25 March 2024, p 11.

⁹⁰ DJAG, correspondence, 21 March 2024, p 7.

⁹¹ Public briefing transcript, Brisbane, 25 March 2024, p 11.

and whilst they may be able to refuse an application for information made directly to their offices, the original entity may not be able to and so, despite the best efforts of the Victims' Commissioner and the Board, the information may be sourced from another entity, such as the Queensland Police Service or the Director of Public Prosecutions.⁹² Ultimately, DJAG stated that they believed there were sufficient safeguards in the Bill to protect the sharing of confidential information.⁹³

2.2.4 Consistency with fundamental legislative principles

2.2.4.1 *Appropriate protection against self-incrimination*

The Bill introduces offences related to an entity's failure to respond to a notice from the Victims' Commissioner or Board to provide information (without a reasonable excuse).⁹⁴ If the entity is an individual, it is not a reasonable excuse for the individual to fail to comply with the request on the basis that complying might tend to incriminate the individual or expose them to a penalty.⁹⁵ In other words, these provisions may not appropriately protect individuals from incriminating themselves. The explanatory notes acknowledge the potential inconsistency with this fundamental legislative principle, but state that it is critical that the Victims' Commissioner and the Board can receive this type of sensitive and protected information to assist them in their functions under the proposed Act.⁹⁶

Whilst an individual may be compelled to provide information in these circumstances, the Bill does provide evidential immunity.⁹⁷ This means that evidence of the information, and other evidence directly or indirectly derived from the information, is not admissible against the individual in any proceeding to the extent it tends to incriminate the individual, or expose the individual to a penalty, in the proceeding.⁹⁸

2.2.5 Compatibility with human rights

2.2.5.1 *Right to privacy and reputation – requests for information*

The right to privacy protects individuals against unlawful or arbitrary interferences with their privacy, family home or correspondence.⁹⁹ The Bill raises this issue through proposed provisions which include, but are not limited to, providing the Victims' Commissioner with the power to request information, which may include confidential information, from a prescribed entity or from a relevant entity in relation to a complaint.¹⁰⁰

The information sharing provisions limit the right to privacy because they may involve a person's confidential information being provided by an entity without the person's knowledge or consent, or for a purpose other than the purpose for which it was originally provided to, or obtained by, the entity.

Committee comment

The committee notes the potential inconsistency between the offence provisions introduced and the right to protection against self-incrimination, but concludes that it is important for the Victims'

⁹² Public briefing transcript, Brisbane, 25 March 2024, p 11.

⁹³ DJAG, correspondence, 21 March 2024, p 6.

⁹⁴ Bill, cls 29, 51 and 86.

⁹⁵ See, specifically, Bill cls 29(6), 51(5) and 86(6).

⁹⁶ Bill, cls 9, 62; Explanatory notes, p 18.

⁹⁷ Bill, cl 100.

⁹⁸ Bill, cl 100(2). Note that this immunity will not apply to a proceeding about the false or misleading nature of the information or anything in which the false or misleading nature of the information is relevant evidence.

⁹⁹ HRA, s 25.

¹⁰⁰ Bill, cls 29, 51 and 86.

Commissioner and the Board to be able to request this type of information in order to effectively perform their functions.

While noting that the information sharing provisions may limit the right to privacy, the committee recognises that the purpose of the information sharing provisions is to ensure the Victims' Commissioner and the Board can access all relevant information to fulfil their functions. The committee is also mindful of the broader purpose of the Bill, being to promote and protect victims' rights and review systemic issues in relation to the reporting, investigation and prosecution of sexual offences in Queensland. Accordingly, the committee is satisfied that any limitation on human rights is justified in the circumstances.

The committee notes the issues raised by stakeholders regarding the access to information provisions in the Bill. The committee recognises that stakeholders are concerned about the potential for sensitive or confidential information to be given to those acting with malicious intent or the potential for stakeholders to be obligated to disclose information to the Victims' Commissioner and the Board.

The committee notes advice from DJAG that it is within the remit of the Victims' Commissioner or the Board to decide not to share information with another party and that stakeholders are able to refuse to comply with a notice to provide information by virtue of a reasonable excuse. The committee also particularly notes that DJAG stressed the importance of these two entities operating as a 'vault' to information they receive. Overall, the committee is satisfied with the access to information provisions within the Bill.

2.3 Other

2.3.1 Use of the term 'victim-survivor' as opposed to victim

2.3.1.1 *Stakeholder views*

The WSJTR No. 2 stated they had chosen to use the term 'victim-survivor' throughout the report in order to more accurately describe 'women and girls who have experienced sexual violence'. The term was chosen because 'it acknowledges the harm done by sexual violence and the efforts of victims to protect themselves from the sexual violence and the violence of the criminal justice process'.¹⁰¹

LawRight submitted that the Victims' Commissioner and the Board should use the term 'victim-survivor' as opposed to 'victim' in all communications and material published in relation to the Bill in order to provide recognition and empowerment.¹⁰² Gold Coast Centre Against Sexual Violence Inc. stated it was important for the Victims' Commissioner and Board to act in a trauma informed way and that use of this language would assist in the performance of that responsibility.¹⁰³

2.3.1.2 *Department response*

DJAG responded that the use of the term 'victim' in the Bill was consistent with other legislation in Queensland, including the *Domestic and Family Violence Protection Act 2012* and the *VOCA Act*.¹⁰⁴

Committee comment

The committee notes the suggestion by some submitters for the use of the term 'victim-survivor' over 'victim' in communication surrounding the Bill. The committee also notes that DJAG have advised that the use of the term 'victim' in the Bill is consistent with other legislation.

¹⁰¹ WSJTR No. 2, p 8.

¹⁰² LawRight, submission 10, p 4.

¹⁰³ Gold Coast Centre Against Domestic Violence Inc., submission 5, p 4.

¹⁰⁴ DJAG, correspondence, 21 March 2024, p 6.

Overall, the committee is satisfied with the language used in the Bill and believes that sufficient regard has been given to trauma informed practices within the functions and operation of the Victims' Commissioner and the Board.

2.3.2 Complaints mechanism

The Victims' Commissioner's complaint function is linked to the Charter, which has a narrower application because it only applies to victims of offences against the person or domestic and family violence offences as opposed to all victims.¹⁰⁵

2.3.2.1 *Stakeholder views*

There were 2 key issues raised by submitters in relation to the complaints mechanism: the potential anonymity of a complaint, and how it is made (whether orally or in writing). Clause 47 of the Bill states a complaint must include the complainant's name and contact information together with enough details to indicate the alleged contravention to which the complaint relates.

LawRight submitted they believed the Bill should be amended to allow for a complaint to be made anonymously.¹⁰⁶ When questioned at the public hearing about whether they believed a complaint made anonymously would hinder the Victims' Commissioner's ability to resolve it, LawRight stated they did not anticipate any negative effects, as those wanting to make anonymous complaints are not usually interested in the complaint being investigated and resolved with reference to themselves.¹⁰⁷

LawRight and QIFVLS submitted that there should be specific provision for a complaint to be made orally (not just in writing) due to language and literacy issues faced by their clients.¹⁰⁸

The QFCC raised the importance of recognition being given to children via the complaint's framework contained within the Bill.¹⁰⁹ At the public hearing, the QFCC raised that where a child is a victim of a crime, they should have access to the same supports and processes as adult victims of crime and that children need to be given the 'capacity, resources, and social licence to help [them] proceed with complaints in the Charter'.¹¹⁰ This is particularly important in circumstances where children do not have an advocate or adult guardian willing or able to proceed through that process on their behalf.¹¹¹

2.3.2.2 *Department response*

DJAG responded that there was nothing in the Bill to prevent or prohibit a person from making a complaint outside of the formal complaint mechanism in the Bill but that it may not be dealt with unless it meets the relevant threshold requirements, such as providing contact details in accordance with clause 47(1)(b).¹¹²

DJAG also noted that although allowance for a complaint to be made orally is not explicitly mentioned in clause 47, '[i]f the Victims' Commissioner is satisfied the complainant needs help to put the complaint in writing, the Victims' Commissioner must give the complainant reasonable help to do so [and] it is intended that a person may make an initial complaint to the Victims' Commissioner in a method other than by writing'.¹¹³ The department outlined the importance for the complaint to

¹⁰⁵ DJAG, correspondence, 13 March 2024, p 2; DJAG, correspondence, 21 March 2024, p 5.

¹⁰⁶ LawRight, submission 10, p 11.

¹⁰⁷ Public hearing transcript, Brisbane, 25 March 2024, p 8.

¹⁰⁸ LawRight, submission 10, pp 11-12; QIFVLS, submission 13, pp 4-5. See also Bill, cl 47(1).

¹⁰⁹ Public hearing transcript, Brisbane, 25 March 2024, p 2.

¹¹⁰ Public hearing transcript, Brisbane, 25 March 2024, p 2.

¹¹¹ Public hearing transcript, Brisbane, 25 March 2024, p 2.

¹¹² DJAG, correspondence, 21 March 2024, p 5.

¹¹³ DJAG, correspondence, 21 March 2024, p 5.

ultimately be in writing as the Victims' Commissioner needs to have access to complaint particulars to assist them in appropriately dealing with the complaint.¹¹⁴

Committee comment

The committee notes stakeholders' views in relation to making an anonymous complaint but is reassured by the advice from DJAG that there is nothing in the Bill to prevent a person making a complaint outside of the formal complaint mechanism in the Bill which requires contact details.

The committee also notes stakeholders' concerns surrounding a complaint being made orally versus in writing. The committee is similarly reassured that oral complaints can be facilitated. It is the committee's expectation that the Office of the Victims' Commissioner should ensure that those wishing to make an oral complaint are given the appropriate assistance to do so.

The committee notes the concerns of the QFCC surrounding the ability of children to make a complaint to the Victims' Commissioner in relation to a breach of the Charter. To ensure the rights and interest of all victims of crime are met, especially vulnerable children who do not have an advocate or adult guardian, the committee urges the Victims' Commissioner to consider whether their internal complaints processes are suitable for children without an advocate or adult guardian.

Recommendation 2

The committee recommends that consideration be given to whether the complaints mechanism in the Bill is sufficient in relation to the ability of children to make a complaint where they lack an advocate or willing adult to make a complaint on their behalf.

2.3.3 Review process

2.3.3.1 Background and stakeholder views

DVConnect were concerned that a review process had not been legislated in the Bill and believed the same was necessary in order to make certain the Victims' Commissioner and the Board are firstly, performing their functions well and secondly, that the functions given to them are appropriate.¹¹⁵ DVConnect were particularly concerned in relation to the breadth of powers given to the Victims' Commissioner and that there would be no way to survey the Victims' Commissioner and Board's functions moving forward.¹¹⁶ Multicultural Australia supported a review process to be conducted to ensure there are not significant groups with vulnerabilities who are not finding support through the intended processes.¹¹⁷

2.3.3.2 Department response

DJAG responded to these concerns by saying that there are several implementation activities and processes in place as the establishment of the Victims' Commissioner and the Board relate to recommendations of the Taskforce. They also stated that '[i]n March 2023, the Independent Implementation Supervisor was appointed to oversee the implementation of recommendations arising from the Taskforce Reports. The Independent Implementation Supervisor is currently monitoring the implementation of the recommendations, including assessing whether the policy intent of the recommendations has been satisfied.'¹¹⁸ Given this, DJAG advised that it was not considered necessary to include a further legislative review of the Victims' Commissioner or the Board.

¹¹⁴ DJAG, correspondence, 21 March 2024, p 5.

¹¹⁵ DVConnect, submission 8, p 4.

¹¹⁶ Public hearing transcript, Brisbane, 25 March 2024, p 14.

¹¹⁷ Public hearing transcript, 25 March 2024, p 5.

¹¹⁸ DJAG, correspondence, 21 March 2024, p 9.

Appendix A – Submitters

Sub #	Submitter
1	The Public Advocate
2	Australian Christian Lobby
3	Domestic Violence Prevention Centre Gold Coast
4	Queensland Sexual Assault Network
5	Gold Coast Centre Against Sexual Violence Inc.
6	Ending Violence Against Women and Children Queensland
7	knowmore
8	DVConnect
9	Multicultural Australia
10	LawRight
11	Legal Aid Queensland
12	Queensland Family and Child Commission
13	Queensland Indigenous Family Violence Legal Service
14	Institute for Urban Indigenous Health
15	Independent Ministerial Advisory Council

Appendix B – Officials at public departmental briefing

25 March 2024

Department of Justice and Attorney-General

- Mrs Leanne Robertson, Assistant Director-General, Strategic Policy and Legislation
- Ms Sakitha Bandaranaike, Director, Strategic Policy and Legislation
- Mr Michael Coccetti, Principal Legal Officer, Strategic Policy and Legislation
- Ms Madeline Young, Senior Legal Officer, Strategic Policy and Legislation

Appendix C – Witnesses at public hearing

25 March 2024

Multicultural Australia

- Ms Kalpalata Iyer, Research and Advocacy Manager

LawRight

- Ms Kate Adnams, Senior Lawyer
- Ms Famin Ahmed, Volunteer Lawyer

DVConnect

- Ms Michelle Royes, Director Clinical Governance
- Ms Kayla Zonneveld

The Public Advocate

- Dr John Chesterman, The Public Advocate
- Mr Yuu Matsuyama, Senior Legal Officer

Queensland Family and Child Commission

- Mr Luke Twyford, Principal Commissioner
- Ms Natalie Lewis, Commissioner
- Ms Anne Edwards, Executive Director of Operations

Queensland Sexual Assault Network

- Ms Angela Lynch, Executive Officer

Queensland Indigenous Family Violence Legal Service

- Mr Kulumba Kiyingi, Senior Policy Officer

