

Victims' Commissioner and Sexual Violence Review Board Bill 2024

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15 March 2024

Mr Peter Russo MP
Chair
Community Safety and Legal Affairs Committee
Parliament House
George Street
BRISBANE QLD 4000

Via email: CSLAC@parliament.qld.gov.au

Dear Mr Russo,

Submission on the *Victims' Commissioner and Sexual Violence Review Board Bill 2024*

Thank you for the opportunity to make a submission to the Community Safety and Legal Affairs Committee on the *Victims' Commissioner and Sexual Violence Review Board Bill 2024* (Bill). We have no concerns about this submission being published. Noting the short timeframe for submissions,¹ we have not made comprehensive comments about the Bill.

We support the Queensland Government implementing recommendations from the inquiries referred to in the Explanatory Notes on the Bill — namely:

- the Women's Safety and Justice Taskforce (Taskforce)
- the Independent Commission of Inquiry into Queensland Police Service Responses to domestic and family violence (Independent Commission of Inquiry)
- the former Legal Affairs and Safety Committee's inquiry into support provided to victims of crime.

¹ The Bill was introduced to the Queensland Parliament and referred to the Community Safety and Legal Affairs Committee on 6 March 2024. Submissions are due by 10am on 15 March 2024.

As such, we are pleased to see the Queensland Government introduce a Bill to establish a permanent Victims' Commissioner (Commissioner) and the Sexual Violence Review Board (Board). We make 4 recommendations below to improve the Bill and then comment on 2 related matters.

Recommendations to improve the Bill

Recommendation 1: Providing clear functions for the Commissioner and the Board in relation to individual cases

Clauses 9 and 62 of the Bill should be amended to provide clear functions for the Commissioner and the Board in relation to individual cases. These functions are not currently present in the Bill and the Explanatory Notes direct the attention of the Commissioner and the Board away from individual cases.² This reflects a more limited role for the Commissioner and the Board than what the relevant inquiries recommended. For example, the Taskforce recommended for the Commissioner's functions to include 'assisting victims in their dealings with government agencies across the criminal justice system' and for the Commissioner to '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 South Australian model)'.³ Similarly, the Taskforce recommended that the Board's functions include 'the independent review of sexual violence cases that are not progressed, or cases requested to be considered by the victims' commissioner'.⁴ Clear functions for the Commissioner and the Board in relation to individual cases would help to address a common experience reported by our clients of feeling marginalised or excluded from the criminal legal process.⁵

² Explanatory Notes on the Bill, pp 4 and 6.

³ Women's Safety and Justice Taskforce (Taskforce), *Hear her voice: report two, volume one*, 2022, Recommendation 18, p 139, <www.womenstaskforce.qld.gov.au/publications>. See also Independent Commission of Inquiry into Queensland Police Service responses to domestic and family violence (Independent Commission of Inquiry), *A call for change*, 14 November 2022, Recommendation 78, p 345, <www.qpsdfvinquiry.qld.gov.au/about/report.aspx>.

⁴ Taskforce, Recommendation 46, p 239.

⁵ See knowmore, *Submission to the Legal Affairs and Safety Committee's inquiry into support provided to victims of crime*, 12 April 2023, p 5, <knowmore.org.au/wp-content/uploads/2023/06/submission-inquiry-into-support-provided-to-victims-of-crime-qld.pdf>.

Recommendation 2: Clarifying that the Commissioner’s functions include making recommendations about legislation

Subclause 9(g) of the Bill should be amended to make clear that the Commissioner’s functions include making recommendations about improvements to legislation. We suggest the following amendment, indicated in red text:

The functions of the commissioner are—

...

*(g) to provide advice to the Minister on issues affecting victims and the promotion of victims’ rights, including making recommendations about improvements to **legislation**, government policy, practices, procedures and systems to support the rights of victims ...*

This change would recognise the significant role that legislation plays in supporting or failing to support victims,⁶ and the importance of victims’ rights in lawmaking and law reform processes. It would also bring the Bill into closer alignment with the relevant recommendation of the Taskforce, which stated that the Commissioner’s functions would include the following (bold added):

- ‘identifying systemic trends and issues including in relation to policy, **legislation**, practice or procedure and potential responses to address these issues’
- ‘monitoring and reviewing the effect of **the law**, policy and practice that impact victims of crime’.⁷

Recommendation 3: Clarifying the proper focus of the Commissioner’s functions

Subclause 11(1) of the Bill should be amended to more clearly communicate the proper focus of the Commissioner’s functions. We suggest the following amendment, indicated in red text:

*(1) In performing the commissioner’s functions, the commissioner must act independently and in the public interest, having **a focus on and** regard to all of the following—*

- (a) the vulnerability of victims of sexual violence or domestic violence;*
- (b) the vulnerability of Aboriginal and Torres Strait Islander victims;*

⁶ See, for example, our recent comments on the *Victims of Crime Assistance Act 2009* (Qld): knowmore, *Submission to the inquiry into youth justice in Queensland*, 10 January 2024, pp 34–43, <knowmore.org.au/wp-content/uploads/2024/01/submission-inquiry-into-youth-justice-reform-qlld.pdf>.

⁷ Taskforce, Recommendation 18, p 139.

(c) victims who have characteristics that may make them particularly vulnerable to harm.

[The subclause includes a list of examples.]

This change would increase the Bill's alignment with the relevant recommendation from the Taskforce, which included that the Commissioner 'will have a specific and dedicated focus on victims of domestic, family and sexual violence and First Nations victim-survivors, given the particular vulnerability'.⁸ In relation to victims of sexual violence, this change would also better reflect the Commissioner's role as the chairperson of the Sexual Violence Review Board.⁹

Recommendation 4: Keeping accessible terminology in the charter of victims' rights

Chapter 3 of the Bill should be amended to keep the more accessible terminology that is currently used in the charter of victims' rights (victims' rights charter) under the *Victims of Crime Assistance Act 2009* (VOCA Act). If chapter 3 of the Bill is not amended, it will change 'victim' to 'affected victim', 'crime' to 'relevant offence' and 'harm' to 'personal harm' throughout the victims' rights charter. This would be a move away from plain language and does not reflect the way that most victims speak about themselves or their experiences. Given the importance of the victims' rights charter in communicating expected standards of conduct to a wide range of people, it is especially important that the victims' rights charter is accessible and meaningful to victims.

Comments on related matters

We make comments below on 2 further matters related to the Bill.

First, we note that the Bill will move the victims' rights charter from the VOCA Act to the new *Victims Commissioner and Sexual Violence Review Board Act*.¹⁰ While we recognise the link between the Commissioner's complaint function and the victims' rights charter (identified in the Explanatory Notes),¹¹ the move leaves unaddressed some fundamental issues with the victims' rights charter — in particular, that the victims' rights charter has a lesser status than Queensland's *Human Rights Act* and is not legally enforceable.¹² We note that the Queensland Government has committed to considering whether to incorporate

⁸ Taskforce, Recommendation 18, p 139.

⁹ See *Victims' Commissioner and Sexual Violence Review Board Bill 2024* (Qld), section 68.

¹⁰ *Victims' Commissioner and Sexual Violence Review Board Bill 2024* (Qld), chapter 3.

¹¹ Explanatory Notes on the Bill, p 4.

¹² *Victims of Crime Assistance Act 2009* (Qld), section 7; *Victims' Commissioner and Sexual Violence Review Board Bill 2024* (Qld), section 43.

victims' rights in the *Human Rights Act* as part of a statutory review.¹³ knowmore looks forward to this review commencing, so that fundamental issues with the victims' rights charter can be addressed.

Second, we acknowledge, and welcome, the Queensland Government's commitment to piloting a statewide victim advocate service for victims of sexual violence in response to Recommendation 9 from the Taskforce.¹⁴ The importance of victims and survivors having someone to champion their rights cannot be overstated. Based on the insights we have gained from our clients about the challenges they face in engaging with the criminal legal system, we believe that reforms to establish free, independent and trauma-informed legal assistance for victims would be strongly supported by victims and survivors of child sexual abuse. We look forward to the Queensland Government establishing the statewide victim advocate service.

Thank you again for the opportunity to provide comments on the Bill. Should we be able to provide any further information to assist, Lauren Hancock, Manager Law Reform and Advocacy, can be contacted on [REDACTED] or at [REDACTED].

Yours sincerely,



Rachel Neil
Acting Principal Lawyer

¹³ Queensland Government, *Inquiry into support provided to victims of crime: Queensland Government response*, 19 May 2023, p 4, <documents.parliament.qld.gov.au/com/LASC-C96E/202324BE-8296/Government%20Response%20to%20LASC%20Report%20No.%2048,%20Inquiry%20into%20support%20provided%20into%20victims%20of%20crime.pdf>.

¹⁴ Queensland Government, *Action for victim-survivors of sexual violence*, 21 November 2022, <statements.qld.gov.au/statements/96625>; Taskforce, Recommendation 9, p 129.