

Commissioner Natalie Lewis
Office of the Aboriginal and Torres Strait Islander Children's Commissioner

Policy Submission

Submission to the Review of the Queensland Charter of Victims' Rights

17 October 2025



ACKNOWLEDGEMENT OF COUNTRY

The Office of the Aboriginal and Torres Strait Islander Children's Commissioner acknowledge Aboriginal and Torres Strait Islander peoples as the Traditional Custodians across the lands, seas and skies where we walk, live and work.

We recognise Aboriginal and Torres Strait Islander people as two unique peoples, with their own rich and distinct cultures, strengths and knowledge. We celebrate the diversity of Aboriginal and Torres Strait Islander cultures across Queensland and pay our respects to Elders past, present and emerging.

We acknowledge the important role played by Aboriginal and Torres Strait Islander communities and recognise their right to self-determination, and the need for community-led approaches to support healing and strengthen resilience.

The submission draws on emerging international guidance, including the UN Committee on the Rights of the Child's Draft General Comment No. 27 (2024), which clarifies States' obligations to guarantee children's right to access justice and to an effective remedy for all rights violations, including those arising from State systems and institutions.

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1. Executive summary

This submission to the Review of the *Queensland Charter of Victims' Rights* calls for a modern, rights-based framework that recognises victims, particularly children and Aboriginal and Torres Strait Islander peoples, as active rights-holders entitled to justice, redress and participation. Recommendations outlined in Section 2 aim to ensure that the Queensland's Charter reflects contemporary international standards, strengthens accountability, and affirms the dignity, agency and participation of all victims and survivors.

Public confidence in the justice system is essential to community safety. When victims, especially children, trust that their rights will be upheld and their voices heard, they are more likely to report harm and engage with justice processes. Strengthening the *Charter of Victims' Rights* to ensure transparency, accountability, and child-sensitive practice not only fulfils human rights obligations but directly enhances public safety by building trust, preventing further harm, and reinforcing the legitimacy of the justice system.

2. Recommendations

- Amend the Charter to include an explicit human-rights compatibility clause, ensuring that all actions and decisions under the Charter are interpreted and applied consistently with:
 - the *Human Rights Act 2019 (Qld)*;
 - the *United Nations Convention on the Rights of the Child (UNCRC)*; and
 - the *United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)*.
- Make the best interests of the child (Article 3, UNCRC) a binding and demonstrable obligation under the Charter. Require all agencies and decision-makers to assess, document and publicly account for how the best interests of children were identified, considered and balanced in any decision that affects them.
- Amend the Charter to explicitly recognise children as victims in their own right, whether they directly experience harm or are exposed to, witness, or are otherwise affected by violence.
- Expand the Charter's scope beyond "violent offences" to explicitly recognise all victims of serious harm¹:
 - a) physical injury or illness;
 - b) psychological or emotional trauma, including trauma arising from exposure to violence, coercion, neglect or discrimination;
 - c) cultural harm, including loss of identity, kinship, connection to Country or community;
 - d) economic harm resulting from the incident or from institutional or systemic failings; and
 - e) harm arising from the acts or omissions of public entities or institutions, where such acts or omissions amount to a breach of duty of care or abuse of power.

¹ The term "serious harm" should be defined broadly to capture the full range of impacts recognised in human-rights and trauma-informed frameworks. This approach reflects section 17 of the *Human Rights Act 2019* (protection from cruel, inhuman or degrading treatment) and Articles 19 and 39 of the *UN Convention on the Rights of the Child*, which affirm children's right to protection from all forms of violence and to recovery and redress for any harm suffered.

- Expand the Charter's scope to explicitly recognise institutional and systemic harm, including those affected by the acts or omissions of public entities, State officials, State-funded bodies, and organisations funded or regulated by the State.
- Amend the Charter to adopt the inclusive term victim-survivor throughout policy, practice and communication, while retaining the legal term 'victim' where required for statutory precision and procedural integrity.
- Amend the Charter of Victims' Rights to remove references to "vulnerability" and substitute terminology that reflects the structural, systemic and contextual determinants contributing to serious harm and victimisation. (i.e. considering what factors that create risk rather than locating vulnerability with individuals or communities).
- Amend the Charter (Schedule 1 of the Victims of Crime Assistance Act 2009 (Qld) to require agencies to establish and maintain child-sensitive, trauma-informed and culturally safe complaints processes.
- The Victims' Commissioner should be required to publish an Annual Charter Compliance Report which:
 - documents breach of the Charter of Victims' Rights, including the nature and frequency of complaints;
 - provides disaggregated data on Charter compliance and complaint outcomes by age, sex, disability, cultural background, Aboriginal and Torres Strait Islander identity, and geographic location, to identify inequities and monitor systemic performance over time;
 - outlines remedies and systemic responses implemented by agencies and, where evident, providing examples of emerging best practice; and
 - includes an assessment of child participation outcomes, highlighting how children and young people have been engaged in complaint processes, service design, and policy reform.

3. Alignment with human rights obligations

The rights outlined in the current *Charter of Victims' Rights* are highly specific and procedural. While these remain important, the Charter would benefit from the inclusion of broader guiding principles that articulate the human-rights foundations of victim protection. Embedding such principles would strengthen consistency with the *Queensland Human Rights Act 2019* and international law, and provide clearer direction for prescribed persons, agencies and victims.

The Draft General Comment No. 27 on Children's Right to Access to Justice and to an Effective Remedy (2024) reaffirms that access to justice is a substantive, procedural and enabling right, the gateway through which all other rights can be realised. It requires States to guarantee child-sensitive, accessible and effective remedies for violations of any right under the Convention, including those committed by public authorities or institutions².

A revised Charter should be understood as part of a whole-of-system continuum that links prevention, protection, participation, and accountability. This approach, reflected in UNICEF and OHCHR guidance on child-sensitive justice, recognises that children's safety and recovery depend *not only* on responses to harm but on the systems that prevent it, enable participation in decision-making, and ensure effective remedy when rights are breached. Embedding this continuum within the Charter would promote

² UN Committee on the Rights of the Child, *Draft General Comment No. 27 on children's right to access to justice and to an effective remedy*, CRC/C/GC/27 (advance unedited version, 2024), paras 14–16, 33.

coherence across Queensland's child protection, youth justice, and victims' support systems, ensuring that children's rights are upheld at every stage of engagement with the State.

The revised Charter should enshrine principles that guarantee victims:

- effective remedies and redress: Judicial and administrative mechanisms to obtain remedies, compensation and restitution for the harm suffered.
- informed access to justice: Information about available rights, remedies and compensation pathways across justice, health and social service systems.
- meaningful participation: Opportunities to safely present views and concerns at appropriate stages of proceedings where their interests are affected, without prejudice to the rights of the accused.
- holistic and culturally safe support: Access to material, medical, psychological and social assistance from organisations attuned to victims' diverse needs, including Aboriginal and Torres Strait Islander community-controlled organisations and culturally and linguistically diverse service providers.
- applying a human-rights-based approach would expand the protection of victims and reinforce that their rights and fundamental freedoms are *universal, inalienable and interdependent*.

To strengthen rights alignment, key provisions of the *Human Rights Act 2019* should be expressly referenced in the Charter, including:

- Section 15(1) and (3): Every person has the right to recognition as a person before the law, equality before the law, and equal protection of the law without discrimination.
- Section 21: Freedom of expression, including the right to seek, receive and impart information and ideas.
- Section 26: Every child has the right, without discrimination, to the protection needed in their best interests because of being a child.
- Section 58: Public entities must act and make decisions in a way that is compatible with human rights.

Explicit cross-reference to these sections would embed the *Human Rights Act 2019*'s interpretive framework into the Charter and clarify that prescribed persons must act compatibly with human rights when engaging with victims.

The Charter should also acknowledge the distinct cultural rights and experiences of Aboriginal and Torres Strait Islander peoples, who remain over-represented in Queensland's criminal justice system as both victims and defendants. Recognition should be guided by Article 22 of the UN Declaration on the Rights of Indigenous Peoples, which obliges States to take measures, in conjunction with Indigenous peoples, to ensure that Indigenous women and children enjoy full protection and guarantees against all forms of violence and discrimination.

This would better align the Charter with Closing the Gap target 13: By 2031, the rate of all forms of family violence and abuse against Aboriginal and Torres Strait Islander women and children is reduced at least by 50%, as progress towards zero. For this target to be met, institutional racism must be combatted, misidentification of victim-survivors as perpetrators must cease, and acknowledgement by current systems of the importance of connection to culture, language knowledge and identity in healing, be

strengthened³. Explicit reference to these priorities in the revised Charter would improve awareness of this Closing the Gap target and the responsibility of prescribed persons to meet that target.

The Hear Her Voice Report 1⁴ articulates several human rights that are critical when designing legal and policy responses to coercive control, including the protection of families and children, and the recognition of cultural rights. These rights go to the heart of what a reformed Charter of Victims' Rights must protect. Explicitly embedding these rights in the Charter would ensure that victims of coercive control, particularly Aboriginal and Torres Strait Islander women and children are afforded consistent protections and access to culturally informed justice pathways. It also aligns the Charter with the *Human Rights Act 2019* (sections 15, 26, and 28) and with Articles 19 and 39 of the UNCRC, which guarantee protection from all forms of violence and the right to recovery and redress.

Research from the Victims of Crime Commissioner (Victoria) further underscores why structural and systemic analysis must inform the Queensland review. The Victorian findings reveal that mistrust in justice and support systems among Aboriginal victims of crime stems from repetitive negative experiences such as being disbelieved, misidentified as perpetrators, or dismissed by service systems, and from a pervasive sense that help and redress are not genuinely available. These insights mirror the realities reported by Aboriginal and Torres Strait Islander victims in Queensland, where institutional racism, fragmented service responses, and culturally unsafe practices continue to suppress disclosure and limit engagement with support services.⁵

4. The best interests of the child as a primary consideration

The Charter of Victims' Rights should be amended to include a binding and demonstrable obligation to treat the best interests of the child as a primary consideration in all decisions affecting child victims, consistent with Article 3(1) of the UNCRC.

This obligation should be operational, requiring all agencies and prescribed persons to assess, document and explain how the child's best interests were identified, weighed and prioritised in their decision-making. This approach reflects the standards articulated in the UN Committee on the Rights of the Child's General Comment No. 14⁶ (2013) which defines the best interests principle as both a substantive right and a rule of procedure. Decision-makers must therefore demonstrate, through clear reasoning and written record, that the child's rights and welfare were a primary factor in all determinations made under the Charter.

In line with General Comment No. 13⁷ (2011) on the child's right to freedom from all forms of violence and General Comment No. 24 (2019)⁸ on children's rights in the child justice system, the best-interests obligation includes a duty to minimise harm and secondary trauma during all interactions with justice and support systems. This should include:

- child-sensitive interviewing standards, including the use of trained professionals, culturally safe environments, and restrictions on repeated questioning;

³ Australian Productivity Commission, *Closing the Gap data dashboard*, socio-economic area 13, available from <https://www.pc.gov.au/closing-the-gap-data/dashboard/outcome-area/family-safety/>

⁴ Women's Safety and Justice Taskforce. (2021). *Hear her voice: Report one – Addressing coercive control and domestic and family violence in Queensland*. Brisbane: Queensland Government.

⁵ Victims of Crime Commissioner (2023) *Silenced and Sidelined: Systemic Inquiry into victim participation in the justice system*, <https://victimsofcrimecommissioner.vic.gov.au/media/lpufix5h/silenced-and-sidelined-systemic-inquiry-into-victim-participation.pdf>

⁶ United Nations Committee on the Rights of the Child, *General Comment No. 14 (2013) on the Right of the Child to Have His or Her Best Interests Taken as a Primary Consideration (Article 3, Paragraph 1)*, UN Doc CRC/C/GC/14 (29 May 2013).

⁷ United Nations Committee on the Rights of the Child, *General Comment No. 13 (2011): The Right of the Child to Freedom from All Forms of Violence*, UN Doc CRC/C/GC/13 (18 April 2011).

⁸ United Nations Committee on the Rights of the Child, *General Comment No. 24 (2019) on Children's Rights in the Child Justice System*, UN Doc CRC/C/GC/24 (18 September 2019).

- procedures adapted to the child's age, maturity, disability, gender and cultural identity, consistent with UNICEF's Guidelines on Child-Sensitive Justice⁹ (2016); and
- integrated psychosocial, medical and cultural supports before, during and after proceedings, in recognition that recovery and participation are inseparable from justice.

As recognised in General Comment No. 12¹⁰ (2009) on the right of the child to be heard, the best interests principle must be applied in tandem with the child's right to participate. Children should have the opportunity to express their views freely, be informed of proceedings in accessible formats, and have those views given due weight in accordance with their age and maturity.

Embedding these procedural safeguards within the Charter would bring Queensland into alignment with international standards for child-sensitive justice and with section 26 of the *Human Rights Act 2019* which affirms every child's right to protection and to have their best interests considered as a primary factor in decisions affecting them.

If the Charter's coverage is expanded to encompass victims of institutional, psychological or systemic harm, the same best-interests framework must apply. The standard of protection should not vary by crime type or institutional context. Whether the harm occurs through interpersonal violence, coercive control, or State omission, the best interests of the child remain the guiding principle for all engagement, redress and recovery processes.

5. Recognising children as victims in their own right

The Charter currently has no explicit recognition of children as victims in their own right. The UNCRC recognises children as independent rights-holders entitled to protection, participation, and remedy, not as extensions of adult victims:

- Article 12 establishes children's "*right to be heard and to participate meaningfully in all matters affecting them, including judicial and administrative proceedings*".
- Article 19 obliges States to protect children from "*all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation*".
- Article 39 requires States to ensure "*physical and psychological recovery and social reintegration*" for every child who has suffered neglect, abuse or exploitation.
- General Comment No. 13 (2011) confirms that witnessing or exposure to violence constitutes *psychological violence* and therefore a distinct form of victimisation.
- General Comment No. 24 (2019) on child justice underscores that children's exposure to institutional violence or systemic neglect also engages State responsibility for harm.

The Draft General Comment No. 27¹¹ extends these standards by affirming that children must be able to access justice directly, without discrimination or parental gatekeeping, and that their views must be heard and given due weight at every stage of proceedings. It requires that mechanisms be adapted to children's age, maturity, gender and cultural identity to avoid secondary victimisation and enable meaningful participation and recovery.

Recognising children as victims in their own right has tangible system impacts:

- It triggers procedural rights, including the right to be heard, to information, to protection, and to child-appropriate participation;

⁹ United Nations Children's Fund (UNICEF), *Guidelines on Child-Sensitive Justice* (UNICEF, 2016).

¹⁰ United Nations Committee on the Rights of the Child, *General Comment No. 12 (2009): The Right of the Child to Be Heard*, UN Doc CRC/C/GC/12 (1 July 2009).

¹¹ Committee on the Rights of the Child, *Draft General Comment No. 27 (2024) on children's right to access to justice and to an effective remedy*, para. 12, United Nations, Geneva, 2024 (public consultation version).

- It drives resource allocation for child-sensitive victim services and dedicated trauma recovery supports;
- It strengthens data systems by requiring disaggregation of victim data by age, gender, Indigenous status and disability, improving policy visibility and accountability;
- It creates parity between interpersonal and institutional harm, ensuring children in care, custody or education settings are afforded the same redress mechanisms as other victims of crime.

UNICEF's Guidelines on Child-Sensitive Justice¹² (2016) reinforce that justice systems must treat children affected by violence, whether direct or indirect, as primary victims, requiring dedicated support, participation opportunities, and trauma-informed protection measures. UNICEF emphasises that legal recognition is not symbolic; it "determines access to remedies, procedural standing, and the allocation of institutional responsibility"¹³.

Noting further that the UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power¹⁴ (1985), defines victims as persons who suffer harm through acts or omissions that constitute violations of criminal laws, including those that amount to abuse of power. For Queensland, embedding this recognition in the Charter of Victims' Rights would create legal coherence with section 26 of the *Human Rights Act 2019*, which guarantees every child the protection necessary because of being a child, and with the State's positive duty to act compatibly with human rights under section 58.

The right of children to be heard, to understand and be understood should be explicitly recognised within the Charter, consistent with *Article 12 of the UNCRC*. This is a substantive right, not a procedural formality. This right encompasses both the opportunity to participate and the obligation on adults and institutions to create environments in which children's views are genuinely sought, given due weight, and acted upon in accordance with their evolving capacities. Children are consistently unheard and underrepresented in court proceedings, even when the decisions being made directly affect them.¹⁵

In the context of domestic and family violence, research demonstrates that children possess clear, coherent and contextually grounded understandings of the violence they have witnessed or experienced, including its impact on themselves and their caregivers.¹⁶

Recognising this capacity is critical to designing interventions that are not only protective but responsive to children's own accounts of safety, recovery and relational needs. Children must therefore be supported to articulate what safety means to them and to participate actively in shaping the measures that promote their wellbeing and protection.

The current service system remains ill equipped and lacking the resources to adequately respond to the emotional and physical needs of children who are victims of domestic and family violence including implementation of child safe practice principles and child impact statements, to respond and recognize children as victims.¹⁷

From a developmental science perspective, exposure to violence causes measurable harm equivalent to direct victimisation. UNICEF research demonstrates that chronic exposure to violence, neglect or institutional harm triggers prolonged activation of children's biological stress systems, commonly referred

¹² United Nations Children's Fund (UNICEF), *Guidelines on Child-Sensitive Justice* (UNICEF, 2016).

¹³ United Nations Children's Fund (UNICEF), *Guidelines on Child-Sensitive Justice* (UNICEF, 2016) 7.

¹⁴ *United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*, GA Res 40/34, UN GAOR, 40th session, 96th plenary mtg, Agenda Item 98, Supp No 53, UN Doc A/RES/40/34 (29 November 1985).

¹⁵ Australian Law Reform Commission (2010) *Family Court practice and procedure: the right of the child to be heard* <https://www.alrc.gov.au/publication/seen-and-heard-priority-for-children-in-the-legal-process-alrc-report-84/16-childrens-involvement-in-family-law-proceedings/family-court-practice-and-procedure-the-right-of-the-child-to-be-heard/>

¹⁶ Australian National Research Organisation for Women's Safety (ANROWS), *Children's Experiences of Domestic and Family Violence: Using Research to Inform Practice* (Research Report, 2021); see also Stephanie Holt, Helen Buckley and Sadhbh Whelan, *The Impact of Exposure to Domestic Violence on Children and Young People: A Review of the Literature* (Child Abuse & Neglect, 2008) 32(8) 797.

¹⁷ Pietropiccolo, T. AM., (2023) *Victims In Their Own Right Children in Domestic and Family Violence* <https://valuingchildreninitiative.com.au/assets/uploads/documents/Children-and-DFV-by-Adj.-Prof.-Tony-Pietropiccolo-AM.pdf>

to as “toxic stress”¹⁸ or profound stress. Unlike short-term stress, toxic stress occurs when protective relationships and environments are absent, causing sustained cortisol elevation that disrupts brain development, impairs learning and emotional regulation, and increases lifelong vulnerability to poor physical and mental health outcomes.

The World Health Organisation’s INSPIRE Framework¹⁹ affirms that violence experienced or witnessed in childhood has intergenerational effects, contributing to cycles of trauma, criminalisation and social exclusion. Therefore, failure to recognise children as direct victims obscures causal responsibility and limits the State’s capacity to design preventive and restorative interventions.

The UNICEF Office of Research Innocenti emphasises that toxic stress is not an individual failure but a policy and systems issue: it reflects structural conditions that fail to protect children from persistent adversity. Reducing toxic stress therefore requires coordinated action across justice, care, education and health systems to ensure stable, nurturing and rights-affirming environments a direct expression of States’ obligations under Articles 6, 19 and 39 of the UNCRC.

Data from The Australian Child Maltreatment Study (ACMS) shows that not only have 62% of Australians experienced child maltreatment, but that exposure to domestic violence is the most common form of child maltreatment, showing the vast and growing need to recognise that children are victims themselves, not only secondary victims.²⁰ The ACMS showed 1 in 4 children experience sexual abuse, 1 in 3 experience physical abuse and 2 in 5 experience exposure to domestic violence, an alarming rate of child victims. Recently released Queensland Police Service data demonstrates that 17% of victims of any crime are children. Amongst violent crime categories children and young people make up 37.1 % of sexual offence victims, 24.4% of rape victims and 45 % of other sexual offences, further amplifying the need for children to be established in the Charter with their own separate right to help and redress.²¹

The National Children’s Commissioner has called for child witnesses of domestic, family and sexual violence to be recognized as victims. Exposure of children to any incident of violent or threatening behaviour or abuse between adults who are, or have been, intimate partners or family members is defined as a form of child maltreatment and is associated with increased risk of psychological, social, emotional and behavioural problems for children who witness such behaviours.²²

6. Expanding Charter scope beyond ‘violent offences’

The current Charter of Victims’ Rights is limited in scope to victims of “violent offences.” This narrow framing excludes many forms of serious harm recognised in contemporary human rights law and by victimology research. Children, First Nations peoples, and persons affected by institutional or systemic failures often experience harm that is not captured by a conventional definition of “violence” including psychological, cultural, and economic harm.

International instruments, including the UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (1985), the UN Basic Principles and Guidelines on the Right to a Remedy and Reparation (2005), and General Comment No. 13 (2011) of the Committee on the Rights of the Child, define “harm” broadly to include physical injury, mental suffering, emotional distress, economic loss, and substantial impairment of rights.

¹⁸ *Child and Adolescent Mental Health and Psychosocial Wellbeing Across the Life Course: Towards an Integrated Conceptual Framework for Research and Evidence Generation* (UNICEF Office of Research – Innocenti, 2022).

¹⁹ World Health Organization & United Nations Children’s Fund, *INSPIRE Indicator Guidance and Results Framework: Ending Violence Against Children – How to Define and Measure Change* (UNICEF, 2018)

²⁰ Australian Human Rights Commission (2024) *National Children’s Commissioner calls for children to be recognized as victims in their own right*. <https://humanrights.gov.au/about/news/media-releases/national-childrens-commissioner-calls-children-be-recognised-victims>

²¹ Queensland Police Service (2025) *Maps and statistics* <https://www.police.qld.gov.au/maps-and-statistics>

²² Wathen, C. N., & Macmillan, H. L. (2013). Children’s exposure to intimate partner violence: Impacts and interventions. *Paediatrics & child health*, 18(8), 419–422. https://aifs.gov.au/sites/default/files/publication-documents/cfca-36-children-exposure-fdv_0.pdf

Expanding the Charter's definition of serious harm would ensure that Queensland's framework reflects contemporary trauma science, the *Human Rights Act 2019* and Closing the Gap Target 13, which recognise that harm occurs across physical, psychological, cultural and social domains. It would also ensure victims of non-violent but deeply harmful experiences such as institutional neglect are afforded equal protection, support and access to redress.

7. Expanding Charter scope to recognise institutional/systemic harm

Recognition of institutional and systemic harm is a necessary evolution of Queensland's victim-rights framework. It reflects what has been learned, at immense human cost, through royal commissions, inquiries and lived experience: that harm caused or enabled by systems is no less real, and no less deserving of justice, than interpersonal violence²³.

Available evidence demonstrates that institutional and systemic harm in Queensland remains pervasive, measurable, and enduring. These harms are not isolated incidents but reflect structural weaknesses in how the State fulfils its obligations to protect children's rights.

Children in out-of-home care continue to face disproportionately high risks of physical, sexual, and emotional abuse compared with their peers. The AIHW Child Protection Australia Report (2023)²⁴ found that Aboriginal and Torres Strait Islander children are 10 times more likely to be in out-of-home care than non-Indigenous children, a disparity that has remained consistent for over a decade despite successive commitments to reform. This over-representation signals not only the effects of intergenerational trauma and socio-economic disadvantage, but also systemic bias and institutional racism within the child protection system, key drivers of structural harm.

Queensland Police Service data (2023-24) reveal that 17% of all recorded victims of crime are children, with almost half of all sexual offence victims under 18 years old²⁵. Between the 30 July 2024 and 30 June 2025, close to 20% of all crime was committed against a child. In 2024-25 children accounted for 24% of murder victims; 24% of rape victims; 40% of victims of sexual offences and 25% of robbery victims.²⁶ Among identified child victims, 60% were girls comprising 90% of rape victims, 81% of sexual offence and stalking victims, 78% of other sexual offences, and 66% of kidnapping and abduction cases.

These data expose not only the scale of child victimisation in Queensland but also its deeply gendered nature. Girls are disproportionately targeted in the most serious categories of sexual and gender-based violence. Many of these harms occur within contexts where the State holds a direct duty of care, such as foster placements, residential care, detention centres, and schools highlighting both systemic failure and the urgent need for gender-responsive, rights-based approaches to prevention, protection, and redress.

Reports from the Inspector of Detention Services²⁷ (2023–2024) identify ongoing breaches of the *Human Rights Act 2019*, including unsafe conditions, excessive use of force, inadequate healthcare, lack of education, and failure to maintain cultural connection. The Inspector's findings echo the conclusions of the *Royal Commission into Institutional Responses to Child Sexual Abuse*²⁸, which found that institutional cultures of denial, bureaucratic defensiveness, and poor governance structures directly enabled harm to persist.

²³ Royal Commission into Institutional Responses to Child Sexual Abuse. *Final Report*. Canberra: Commonwealth of Australia, 2017.

²⁴ Australian Institute of Health and Welfare. *Child Protection Australia 2022–23*. Canberra: AIHW, 2023.

²⁵ Queensland Police Service. *Annual Statistical Review 2023–24: Victims of Crime, Queensland*. Brisbane: QPS, 2024.

²⁶ Queensland Police Service, 2025, *Reported offenders number – Qld*, available from <https://www.police.qld.gov.au/maps-and-statistics>

²⁷ Inspector of Detention Services. *Inspection Reports of Queensland Detention Centres and Watch-Houses 2023–24*. Brisbane: Queensland Department of Justice and Attorney-General.

²⁸ Royal Commission into Institutional Responses to Child Sexual Abuse. *Final Report*. Canberra: Commonwealth of Australia, 2017.

The Office of the Public Guardian (OPG) and the Queensland Family and Child Commission (QFCC)²⁹ have both highlighted that children in care and detention frequently describe feeling “*invisible, unsafe, and unheard*” when attempting to raise complaints about mistreatment or neglect. These accounts demonstrate that despite formal mechanisms existing, procedural barriers and power imbalances often render them ineffective.

Together, these data confirm that institutional and systemic harm is ongoing, measurable, and State-inflicted when government systems act or fail to act in ways that breach their positive obligations under the *Human Rights Act 2019* and UNCRC. In this sense, the State can be both protector and perpetrator, underscoring the need for the *Charter of Victims' Rights* to recognise institutional and systemic harm explicitly as a form of victimisation.

A rights-based framework requires acknowledgment that harm caused or enabled by State institutions is not accidental, it is structural. Embedding this recognition within the Charter would ensure that victims of serious institutional failures are afforded the same dignity, justice and reparative pathways as those harmed by interpersonal violence.

8. Recognising victims-survivors in the Charter

While the *Victims of Crime Assistance Act 2009 (Qld)* and the Charter of Victims' Rights currently use the legal term *victim*, contemporary international and domestic frameworks increasingly recognise the term victim-survivor as a more accurate and empowering reflection of people's lived experience.

The language of *victim-survivor* is now well-established across gender-based violence (GBV), child protection, and institutional abuse contexts, supported by UN Women, and the World Health Organization as part of a global move toward trauma-informed, survivor-centred practice. This terminology acknowledges that individuals who experience crime or institutional harm are not defined solely by the offence or by their relationship to the justice system, but also by their resilience, agency, and right to recovery and participation.

Adopting *victim-survivor* language throughout policy, practice and communication, while retaining *victim* where necessary for statutory precision, would align the Charter with key international standards, including:

- CEDAW General Recommendation No. 35³⁰ (2017), which requires States to adopt survivor-centred responses that ensure autonomy, empowerment and accountability for gender-based violence; and
- UN Women's *Essential Services Package for Women and Girls Subject to Violence*³¹ (2020), which defines survivor-centred practice as one that upholds rights to safety, choice, confidentiality, non-discrimination, and participation in decision-making.

Further, amending the Charter to adopt the term *victim-survivor* throughout policy, practice and communication while retaining *victim* where required for statutory precision would:

- bring Queensland's framework into alignment with national reforms such as the National Plan to End Violence Against Women and Children 2022–2032³² and the Women's Safety and Justice Taskforce recommendations;

²⁹ Office of the Public Guardian. *Community Visitor Annual Report 2023–24*. Brisbane: Queensland Government, 2024; Queensland Family and Child Commission. *Voices of Children and Young People Reports 2022–24*.

³⁰ United Nations Committee on the Elimination of Discrimination against Women, *General Recommendation No. 35 on Gender-Based Violence Against Women, Updating General Recommendation No. 19*, UN Doc CEDAW/C/GC/35 (26 July 2017).

³¹ United Nations Entity for Gender Equality and the Empowerment of Women (UN Women), *Essential Services Package for Women and Girls Subject to Violence: Core Elements and Quality Guidelines* (UN Women et al, 2015, revised modules 2020)

³² Australian Government, *National Plan to End Violence Against Women and Children 2022–2032* (Department of Social Services, 2022).

- ensure the Charter's interpretation reflects a trauma-informed and rights-based approach; and
- affirm that recovery and justice require not only protection but recognition of agency and participation in decision-making.

9. Reframing vulnerability and recognising structural determinants of harm

While the Charter of Victims' Rights does not itself contain the phrase "*particularly vulnerable to harm*," this terminology appears in section 11 of the *Victims of Crime Assistance Act 2009 (Qld)*, the enabling legislation that governs the Charter's operation. The language reflects outdated, protectionist and deficit-based assumptions that position certain groups, such as children, Aboriginal and Torres Strait Islander peoples, people with disability, LGBTIQ+ people, and people from culturally and linguistically diverse backgrounds, as passive recipients of protection rather than as active rights-holders with equal standing before the law.

A revised approach should remove references to individual "vulnerability" and instead recognise that harm is socially and structurally produced. Terms such as "groups disproportionately affected by systemic inequality" would better reflect contemporary understandings of rights, risk and accountability. This framing aligns with the *Human Rights Act 2019* and international instruments including UNCRC, the Convention on the Rights of Persons with Disabilities (CRPD), and the UNDRIP.

The concept of "vulnerability" implies inherent fragility or incapacity, which contradicts modern human rights standards that emphasise agency, participation, and the State's positive duty to remove structural barriers to equality. Contemporary frameworks affirm that exposure to harm arises not from personal weakness but from systemic factors such as discrimination, poverty, institutional bias, and the enduring effects of colonisation. The Charter should therefore adopt a structural lens, acknowledging that vulnerability is created by the conditions of society, not the characteristics of individuals.

10. Children sensitive complaints and remedy

The *Charter of Victims' Rights* (Schedule 1 of the *Victims of Crime Assistance Act 2009 (Qld)*) already provides that:

- victims have the right to make a complaint if they believe their rights have not been upheld; and
- complaints can be made to the agency concerned or to the Victims' Commissioner.

The Charter does not provide a legally enforceable right to remedy, review of compensation. The Victim's Commissioner is unable to compel compliance, overturn administrative decisions or order reparation or apology. Complaints may lead to administrative review but not to judicial or financial remedy. Children and victim-survivors cannot yet:

- seek formal review of administrative decisions that breach their rights under the Charter (no external merits or judicial review mechanism exists specific to Charter breaches);
- access compensation or restorative justice processes under the Charter itself, compensation is available only through separate *Victims Assist Queensland* schemes for defined offences; or
- receive formal acknowledgment or apology compelled by the Act or by the Victims' Commissioner (any such outcomes remain discretionary).

While the Charter currently enables victims/survivors to lodge complaints, it lacks an enforceable framework to ensure these mechanisms are child-sensitive, accessible and culturally safe. To comply with *Article 12 of the UNCRC*, *General Comment No. 2*, and *section 26 of the Human Rights Act 2019*, the Charter should require agencies to provide child-centric, trauma-informed and culturally appropriate complaints systems, supported by trained staff and clear avenues for redress.

Consistent with the Draft General Comment No. 27³³ (Section V), effective remedy requires that children can obtain redress through both judicial and non-judicial pathways that are available, accessible, adapted to children's rights and effective in achieving redress. This includes child-friendly complaints mechanisms within all public institutions such as care settings, detention centres and schools, and specialised support for children who seek remedy when their rights are breached.

In the 2024–2025 reporting period the Department of Youth Justice and Victim Support received three victims complaints, where two resulted in further action and one complaint was withdrawn.³⁴ As the reporting for complaints against the Charter of Victims' Rights has only recently commenced the data may not properly reflect the need for this process. However, the Queensland Human Rights Commission finalised only 33 complaints from or on behalf of children or young people, out of the 1,628 finalised complaints for the 2024-2025 period. This strongly suggests the need for more child-friendly and accessible complaints processes with support and remedies available and greater awareness by children and young people of their right to speak up about matters that affect them.

Creating child-sensitive complaints processes for children when their rights are breached under the Charter of Victims' Rights would provide multiple benefits, including delivering on human and child rights principles and creating safe environments for children and young people to share their stories, thus reducing incidents and issues for organisations and carers. It would ultimately improve systems as they would need to address or prevent further issues.

Maintaining a child-sensitive complaints process would address the key principles of any good complaints system as follows:

- Develop simple, user friendly and culturally inclusive complaints processes that are easy to use and follow, and are matched to a range of needs, age or knowledge levels³⁵.
- Use language that is easy to understand and jargon free so that children can be involved with and understand the processes and decisions affecting them.
- Train staff receiving complaints to respond appropriately and empower children and young people to speak up.
- Promote and display information about how the complaints system works under the Charter of Victim Rights and who to speak with about any issues.

11. About the Office of the Aboriginal and Torres Strait Islander Children's Commissioner

Under the *Queensland Family and Child Commission Act 2014* the Aboriginal and Torres Strait Islander Children's Commissioner is granted functional and operational independence in the exercise of their powers and functions. Our vision is that:

Aboriginal and Torres Strait Islander children grow up strong in their identity, culture, and community, free from systemic racism and discrimination. They are safe, nurtured, and thriving in their families, with systems designed to support, not separate. They exercise their rights, participate in decision making, and contribute to solutions that are aligned to their identities and aspirations.

³³ United Nations Committee on the Rights of the Child (2024), *Draft General Comment No. 27 on children's right to access to justice and to an effective remedy*, CRC/C/GC/27 (advance unedited version), Geneva.

³⁴ Department of Families, Seniors, Disability Services and Child Safety(2025) *ANNUAL REPORT 2024–2025*
<https://www.publications.qld.gov.au/dataset/dcyjma-annual-reports/resource/ee2f977e-0cc5-4882-8d93-fe57e2b3085a>

³⁵ CREATE Foundation (2020) *Child-centred Complaints Handling Best Practices Guide*. <https://create.org.au/wp-content/uploads/2020/07/Best-Practice-Guide-Complaints-Updated.pdf>

The child protection and youth justice systems are defined by early intervention, Aboriginal and Torres Strait Islander family-led solutions, and culturally safe care.

The Queensland Government strengthens accountability by integrating child rights into policy, legislation and service delivery.