

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

Policy Submission

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

18 March 2026



ACKNOWLEDGEMENT OF COUNTRY

The Office of the Aboriginal and Torres Strait Islander Children's Commissioner acknowledges 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.

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Contents

Contents.....	3
Background.....	4
Summary	4
Reform architecture.....	5
Recommendations.....	6
Phased Implementation.....	7
Introduction	8
1. Problem Definition.....	8
2. Recognition of child rights and First Nations rights.....	8
2.1 Queensland Human Rights Act 2019.....	8
2.2 United Nations Convention on the Rights of the Child (UNCRC)	9
2.3 United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).....	10
2.4. Awareness and rights literacy	10
3. Accessibility	11
4. Accountability and enforceability	11
4.1 Structural gaps in current victims' pathways	11
4.2 Timeliness and redress	12
4.3. Victims of Crime Where the Alleged Offender is a State Actor.....	12
4.4 Powers of the Victims' Commissioner to intervene where agencies fail to respond.....	14
5. System capability and Cultural Safety	15
5.1 International practice in victims' rights oversight	15
5.2 Capability-building	15
6. Conclusion	16
About the Office of the Aboriginal and Torres Strait Islander Children's Commissioner.....	16

Background

Thank you for the opportunity to make a submission to Stage two of the review of the *Queensland Charter of Victims' Rights* review.

My submission to Stage one called for the Charter to ensure transparency, accountability and child-sensitive practice through a modern, rights-based framework. Such a framework would include:

- closer alignment of the Charter with human rights obligations
- recognising children as victims in their own right
- upholding the best interests of children as a primary consideration
- expanding Charter scope beyond violent offences to encompass institutional/systemic harm
- recognising the term victim-survivor and reframing concepts of 'vulnerability' to acknowledge the effect of systems and social constructs on individual power and agency
- access to child-sensitive complaints and remedies.

This submission addresses some of these concepts in more detail, through four areas which broadly align with the core elements of the Office of the Victims' Commissioner's (the Office) discussion paper:

1. **Rights recognition** (child-specific and First Nations-specific framing)
2. **Accessibility** (early, practical, culturally safe)
3. **Accountability and enforceability** (clear obligations on duty-holders, and remedies)
4. **Capability** (system-wide, UNDRIP-aligned).

I discuss these matters particularly in relation to victims who are children and young people, Aboriginal and Torres Strait Islander peoples, immigrants and people living with a disability.

This submission also proposes extending the operation of the Charter to include where the alleged offender is a state actor.

Summary

Victims' rights are a core component of the state's human rights obligations.

This submission proposes that Queensland's Charter of Victims' Rights operate as a practical and enforceable rights framework. To achieve this, the Charter must recognise children and First Nations peoples as rights-holders, ensure accessible and culturally safe pathways for victims, establish clear obligations on government duty-bearers, and provide independent oversight capable of investigating complaints and addressing systemic failures, including where the alleged offender is a state actor. It must be responsive to child victims, First Nations victims, victims from migrant or refugee backgrounds, and people with disabilities, in its accessibility, language, reach and content. It must be cognisant of how poverty and various forms of discrimination in our society may increase the likelihood of an individual becoming a victim, or of a victim receiving insufficient help from prescribed persons, or even of being criminalised themselves. The Charter's effectiveness should be assessed by whether it delivers meaningful, accessible and culturally legitimate protections for those whose views are heard the least, including in contexts of state power and institutional control.

The Charter should be at least equivalent in its powers to other rights-related legislation in Queensland, such as the Anti-Discrimination Act, the Human Rights Act, the Information Privacy Act, the Ombudsman Act, the Health Ombudsman Act, or the Public Interest Disclosure Act. Consideration could be given to incorporating it into an existing Act, most appropriately the Queensland Human Rights Act.¹ The Charter should operate as a functional, enforceable instrument, not merely an informational or discretionary scheme.

Rights charters require accountability from duty-bearers. Victims' rights can only be fully championed if the Charter moves beyond the current narrow definition of victimhood to encompass victimisation by institutions. It must deliver enforceable, culturally safe protections at points of greatest power imbalance, including where the alleged offender is a state actor. Where the power imbalance between state and institution is particularly wide, for example in police or prison interactions, the need for a strong independent rights charter, with attached independent complaints, remedy and reparation mechanisms, is even more important.

Reform architecture

Reform	Purpose	Comparable international practice	Relevant Human Rights Act right	Relevant UNCRC articles
Enforceable Victims' Charter	Ensure victims' rights operate as legal obligations rather than expectations	UK Victims' Code	s15 equality before the law; s24 Fair hearing	Articles 3, 12
Independent complaints and oversight	Provide victims with access to independent review where agencies fail	Canada Ombudsperson for Victims of Crime	s58 public entity obligations	Articles 4, 19
Victims' Commissioner intervention powers	Allow investigation of systemic failures and agency non-compliance	New Zealand Victims' Commissioner	s58 public entity duty to act compatibly with human rights	Articles 3, 12
Child-specific victims' framework	Ensure complaints processes are developmentally appropriate for children	UN child-friendly justice standards	s26 Protection of families and children	Articles 3, 12, 39
Recognition of state-actor victimisation	Ensure accountability where harm occurs	UN Declaration on Victims of Crime and Abuse of Power	s16 Right to life; s17 Protection from	Articles 19, 37

¹ Legal Affairs and Safety Committee, *Inquiry into support provided to Victims of Crime*, Report no.48, 57th parliament, 2023, Recommendation 3, available from <https://www.parliament.qld.gov.au/Work-of-the-Assembly/Tabled-Papers/docs/5723t648/5723t648-b045.pdf>

	through institutional power		torture and cruel treatment	
Accessible culturally safe pathways	Ensure First Nations, migrant and disabled victims can access remedies	International victims' rights frameworks	s15 Non-discrimination	Articles 2, 30

Recommendations

1. Introduce a reformed Charter of Victims' Rights that is accessible, enforceable, child-centred, and culturally safe for Aboriginal and Torres Strait Islander and migrant victims, and for people with disabilities. This would include the ability in legislation to offer minimum response timeframes, independent oversight of systemic breaches, independent complaints processes and transparent outcomes reporting. A reformed Charter would include:
 - formal alignment with key child rights instruments and the UNDRIP
 - a separate Children's Charter, or provision of specific rights for children in the existing Charter
 - child-specific and First Nations-specific Charter materials, including plain language versions and visual and narrative-based tools, co-designed with children and with First Nations peoples
 - regular, transparent reporting of complaints data
 - an expanded definition of the victim to include where the alleged offender is a state actor, as identified in Part B of the *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*².
2. Introduce differentiated Charter pathways for access, complaints and reporting and accessible, plain English formats for
 - a. children
 - b. First Nations peoples
 - c. migrants, refugees and asylum-seekers
 - d. people with disabilities.
3. Introduce supported decision-making for children exercising victims' rights, protection from retaliation and independent advocates to walk alongside victims.
4. Strengthen and clarify the definition of 'prescribed persons' to align with the concept of 'duty-bearer',* to more clearly outline their accountabilities and responsibilities for respecting and protecting the rights of victims, including victims of state power. Responsibilities would include:
 - a. capability-building of staff to offer proactive advice and early intervention

² United Nations Office of the High Commissioner for Human Rights, 1985, *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*, available from

<https://www.ohchr.org/en/instruments-mechanisms/instruments/declaration-basic-principles-justice-victims-crime-and-abuse>

* "Duty-bearers are entities or individuals having a particular obligation or responsibility to respect, promote and realize human rights and to abstain from human rights violations. It is commonly used to refer to State actors, but non-State actors can also be considered duty-bearers. Depending on the context, individuals, local organizations, private companies, aid donors, and international institutions can also be duty-bearers". UNESCO, https://www.unesco.org/en/international-programme-development-communication/duty-bearers#:~:text=Duty%20bearers%20are%20individuals%20or%20entities%20that,companies%20*%20Aid%20donors%20*%20International%20institutions

- b. mandatory, early advice to victims about their rights
 - c. minimum response timeframes.
5. Partner with community-controlled organisations, migrant support services, disability support services and not-for-profit services to disseminate and explain Charter materials
6. Investigate the benefits of strengthening and promoting victims' rights through integration of the Charter with another Act such as the Queensland Human Rights Act (QHRA), noting the QHRA does not limit rights or freedoms recognised under other Commonwealth or international laws (QHRA s.12).
7. With the appropriate legislation and training, consideration should be given to the Victims' Commission becoming the independent complaints mechanism for police, corrections and youth justice, where significant complaints do not meet the Crime and Corruption Commission (CCC) threshold of serious corruption or misconduct.
8. Ensure full and ongoing implementation in Queensland of the recommendations of the *Royal Commission into Aboriginal Deaths in Custody (1991)*.
9. Provide the Victims' Commissioner with statutory powers to investigate complaints, compel information from prescribed entities, initiate systemic investigations and require responses from agencies where breaches of the Charter are identified.

Phased Implementation

These recommendations can be managed through phased implementation that could look like:

- **Short term (0–12 months)**
Development of accessible guidance, draft legislation, education and capability – building to prepare for enforcement and expanded scope, commence community awareness and education.
- **Medium term (1–3 years)**
Charter, statutory and legislative amendments introduced, pathways developed to self-identify, or complain, for children, migrants and First Nations peoples, continue workforce/agency education.
- **Longer term (4–5 years)**
Workforce and duty-bearer maturity, evaluation.

Introduction

1. Problem Definition

The Charter of Victims' Rights (the Charter) is currently limited to supporting victims of violence against the person by an individual. The Charter helps victims to understand what information and services they may request or expect during a criminal proceeding. The Charter does not support, for instance, victims of frauds and scams, modern slavery, or victims of actions by the state. These too can leave a victim emotionally, psychologically, economically and financially harmed. The Charter is also not designed to proactively uphold or enforce victims' rights. Such an informational framework is least effective where power imbalances are greatest.

Children — particularly Aboriginal and Torres Strait Islander children, children with a disability and immigrant children — can experience inconsistent recognition as victims, fragmented access to supports, and minimal enforcement of rights. Children can be

- primary victims (family or peer violence, sexual abuse)
- secondary victims (family violence, witness to harm or procedural unfairness against a carer)
- both victims and accused.

Each category experiences different risks, encounters different barriers and needs different supports.

2. Recognition of child rights and First Nations rights

The Office of the Victims' Commission has advised that feedback received during stage one of the review, proposed the current Charter did not sufficiently reflect the needs of victims like children, First Nations peoples, people with disability, and people from migrant or asylum-seeker backgrounds.³ Some submitters also noted the need for victims of state actions to be recognised. For example, some children experience harm through their experience of the child protection and youth justice systems.

2.1 Queensland Human Rights Act 2019

The Victims' Charter operates within a statutory rights environment. The current weak enforceability of the Charter is inconsistent with the Human Rights Act's recognition of protection from discrimination (s.15), the right to life (s.16) and the entitlement of families and children to be protected by society and the State (s.26).

The Human Rights Act also makes it unlawful for a public entity to act or decide in a way that is not compatible with human rights or fail to consider a human right relevant to the decision (s58(1)). Human rights complaints can be made about contravention of s58(1) but only after a complaint has first been

³ Office of the Victims' Commission website, *What we've heard so far*, available from https://victimscommissioner.engagementhub.com.au/victims-rights-review-2?_gl=1*q9e45v*_ga*MTEyODkzNTAwNC4xNzU1NTY0MzY3*_ga_42R4RMZKPK*czE3NzIzNDczODgkbzI0JGcxJHQxNzcyMzQ3NDUxJG02MCRsMCRoMA..

made to the public entity (s.65). Given this context there is value in considering if a reformed Charter is better integrated within or aligned with, the Human Rights Act.⁴

The Human Rights Act provides a structured pathway for individuals to raise complaints where public entities fail to act compatibly with human rights. A strengthened Victims' Charter could operate alongside this framework by providing a specialised pathway for victims of crime, particularly children and victims of institutional harm. The Victims' Commissioner could also identify systemic patterns and refer matters to the Queensland Human Rights Commission or other oversight bodies.

2.2 United Nations Convention on the Rights of the Child (UNCRC)

Asserting children's rights when they are ' is a binding human rights obligation requiring positive state action. Noting that

- 18.3% of the victims of crime in the Queensland Police Service's (QPS) public victims' data are children and young people,⁵
- 58% of recorded victims of sexual assault in Australia are children,⁶
- In 2022, younger women were more likely to be victims of sexual assault than older women (56% were under 18 years old),⁷
- Over 20,000 domestic and family violence orders from Queensland courts included a child's name as a protected person in 2023-24,⁸

the Charter should be reformed consistent with the UNCRC and should explicitly recognise children as independent rights-holders with evolving capacity. Such reform must also ensure the role of family, kin and community in supporting the child, where that is consistent with the child's safety.

The following UNCRC rights should be incorporated into the Charter:

- **Article 2** – non-discrimination, including based on race, disability, or system involvement.
- **Article 3** – best interests of the child as a primary consideration
- **Article 12** – children's right to be heard in all matters affecting them, with due weight
- **Article 19** – protection from all forms of violence
- **Article 34** – protection from sexual exploitation and abuse.

2.2.1 Alignment with UNCRC General Comment No. 27

The UN Committee on the Rights of the Child emphasises in General Comment No. 27 that children must have effective access to justice when their rights are violated. This includes child-friendly

⁴ S. Rimmer, *Placing people at the heart of policy, First Independent Review of the Human Rights Act 2019 (Qld)*, Final Report, 2024, Recommendation 67, p. 32, available from <https://www.parliament.qld.gov.au/Work-of-the-Assembly/Tabled-Papers/docs/5825T0232/5825t232.pdf>

⁵ Queensland Police Service, *Maps and statistics*, <https://www.police.qld.gov.au/maps-and-statistics>

⁶ https://www.linkedin.com/posts/michael-salter-335330161_the-hub-submission-to-the-inquiry-activity-7431824199389835267-7ADj/?utm_medium=ios_app&rcm=ACoAAAmkdcUBzbCvWmW_XI8BM6IIApSuZEEjJw&utm_source=social_share_send&utm_campaign=mail

⁷ Queensland Sexual Assault Network, *submission to the review of the Charter*, p.2, https://www.victimcommissioner.qld.gov.au/_media/documents/submission-stage-1/stage-1-submission-7_Queensland-Sexual-Assault-Network_redacted.pdf

⁸ Queensland Courts: Queensland Wide Inter-linked Courts Data, referenced in Office of the Aboriginal and Torres Strait Islander Children's Commissioner, *Child Rights Report, 2025*, p.78.

complaints mechanisms, independent oversight institutions and effective remedies where public authorities fail to uphold children's rights.

2.3 United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)

Aboriginal and Torres Strait Islander children experience disproportionate contact with police, courts and statutory systems. For many First Nations children and young people, violence is rooted in the enduring legacies of colonisation and institutional neglect. It is produced by systems that fail to ensure safety, equity and belonging. Relevant principles of the UNDRIP include:

- **Articles 3–5** – self-determination and the right to maintain institutions
- **Article 22** – particular attention to the rights and needs of Indigenous children;
- **Article 18** – participation in decision-making through representative institutions;
- **Article 23** – Indigenous-led design and delivery of services.

These rights should be incorporated into a strengthened Victims' Charter. The reform process must be culturally grounded, community-connected and First Nations-led, not merely culturally "adapted". Governments have committed, through Priority Reform 3 of *Closing the Gap*, to systemic and structural transformation of government agencies and institutions to ensure they are culturally safe and responsive to the needs of Aboriginal and Torres Strait Islander peoples. This includes eliminating racism and unconscious bias, practicing meaningful cultural safety, developing genuine partnerships with Aboriginal and Torres Strait Islander peoples, organisations and/or businesses, and that when significant changes to policy and programs are being undertaken, that primarily affect Aboriginal and Torres Strait Islander people, governments engage fully and transparently.⁹

Strengthening the powers of the Victims' Commissioner would align Queensland's framework with these international standards.

2.4. Awareness and rights literacy

The Office's discussion paper has identified the Charter is still not well known by the general community, victims or prescribed entities/duty bearers. This means that some core provisions, like keeping victims informed throughout a criminal process, may be operating inconsistently and that victims may be unaware of the opportunity they have to ask for more information. Lack of awareness of their rights may mean that information is received too late, delivered superficially, or in legalistic language.

Child victims are unlikely to proactively approach the Office or prescribed entities, for assistance. For some Aboriginal and Torres Strait Islander children, historical family mistrust of institutions or prior experiences of system harm, may make them even less likely to approach the Office for support. Language and literacy barriers can limit engagement by a broad range of the community, including some migrant communities, and some people with a disability.

Furthermore, the Charter must explicitly address the needs of children who are both victims and accused, including children in the youth justice system. To label these children merely as thugs or perpetrators ignores their past trauma and undermines their rights as victims to receive support.

⁹ Closing the Gap, website, *Priority reform three – transforming government organisations*, <https://www.closingthegap.gov.au/national-agreement/national-agreement-closing-the-gap/6-priority-reform-areas/three>.

3. Accessibility

The Office's discussion paper references the need for an easy-to-read Charter, summarised versions for different groups, including children, and clear and simple language, in keeping with the Child Safe Standards. The discussion paper canvasses the idea of a separate Children's charter, or provision of specific rights for Children in the existing Charter. I would support either of these options. Children are independent rights-holders, whose rights require specific design, safeguards and supports to be realised in practice. Therefore, simply producing a child-sensitive language version of the existing Charter is not sufficient and does not speak to the significant number of victims of crime who are children (as outlined earlier). A separate Charter or specific section in the existing Charter would assist in building awareness of the importance of upholding child rights across the community and with service providers. A separate Charter would need to be useable by children and developmental – that is it still may require multiple versions for different age groups.

Prescribed entities/duty bearers need to be culturally safe for First Nations peoples and immigrants and welcoming to people with disabilities. This will encourage victims from those groups to proactively reach out for support. I know from my work with Aboriginal and Torres Strait Islander community-controlled organisations, that services receive greater uptake when they are culturally safe and when families do not fear retribution, criminalisation, or in the case of family violence matters, child removal. They will come forward as victims, worthy of respect, dignity and support.

Avoid using terms like “*vulnerable*” (see section 11 of the Act). The groups listed in s.11 are made vulnerable by external factors, such as limited access to information, insufficient support, lack of appropriate services, or failures in systems, rather than because of any inherent personal traits. Use of this term risks further marginalisation.

4. Accountability and enforceability

4.1 Structural gaps in current victims' pathways

While the Charter is not enforceable (s.43 of the Victims' Commissioner Act) complaints for contravening the Charter can be made, either to the prescribed entity or to the Victim's Commissioner (s.45). Entities must be able to accept complaints from victims.¹⁰ While a penalty can be applied for failing to produce information about a complaint (s.51), there is no option via the Charter to mandate redress, restitution or improved responsiveness arising from a complaint finding or resolution. This makes the benefit for victims of accessing the Office unclear. Instead, it becomes more likely they will take no action to respond to their own concerns or, if they feel the matter is concerning enough, they may defer to the complaints process of the agency, to QCAT, or to another judicial remedy. An independent, child-sensitive complaints pathway is also essential for the Office to comply with Queensland's new Standards for Child Safe Organisations.

The Office's discussion paper suggests prescribed entities/ duty bearers have inconsistent knowledge of their responsibilities under the Charter. At a minimum prescribed entities must have effective complaints management procedures in place to accurately identify complaints related to alleged breaches of Charter rights (p.36).

¹⁰ Office of the Victims' Commissioner, *Review of the Queensland Charter of Victims' Rights, stage 2 detailed paper*, January 2026, p.24, https://www.victimsc commissioner.qld.gov.au/_media/documents/our-work/review-of-the-charter-of-victims-rights-stage-2/OVC_Charter-review-stage-2_detailed-paper.pdf

Data collected by the Office for its annual report should include disaggregation by complainant (like child or adult) and other characteristics (like age and First Nations status) to support accountability and transparency. If numbers of children and First Nations victims' complaints are too low to be separately counted (for privacy reasons) the lack of access by these groups is also useful information.

Children in statutory systems need individual advocates who can advise them, navigate systems alongside them or on their behalf, and intervene where required to compel positive action in the child's best interests. The availability of individual, child focussed advocacy should not simply be the function of legal advocates. the Office's role could be expanded to provide independent advocates to walk alongside victims.

4.2 Timeliness and redress

The challenges created by the lack of ability to enforce accountability of prescribed entities is outlined in the discussion paper. Rights are expressed largely as expectations, not enforceable obligations. Complaints mechanisms are fragmented, slow, opaque, and likely retraumatising. There is no power related to abuse of state power.

The Domestic Violence Prevention Centre Gold Coast Inc. notes the particular importance of the role of 'justice system entities':

Accountability of the justice system entities to their conduct when dealing with victims of crime will only be realised if the legislation specifies the timeframe in which an entity must initially respond to their complaint, and the timeframe within in which they must investigate the complaint. Enshrining the timeframes in legislation indicates the priority that must be given to victim complaints.¹¹

The discussion paper notes that in England and Wales new duties have been placed on specified criminal justice agencies (e.g. Police, Crown Prosecution Service, Courts and Tribunals Service, Prison and Probation Service) to promote awareness of the Victims' Code, regularly review their compliance with it, and respond to Victims' Commission recommendations within a specified timeframe. (p.32).

Access to genuinely independent complaints processes that incorporate compensation and redress is essential. The Victims' Commissioner could become an independent arbiter of complaints and take over responsibility for complaints that do not meet the CCC threshold of corruption or serious misconduct.

4.3. Victims of Crime Where the Alleged Offender is a State Actor

The Queensland Human Rights Act states it is unlawful for a public entity—

- (a) to act or make a decision in a way that is not compatible with human rights; or
- (b) in making a decision, to fail to give proper consideration to a human right relevant to the decision.

¹¹ Quoted in *Review of the Queensland Charter of Victims' Rights, stage 2 detailed paper*, January 2026, p.25, available from https://www.victimscommissioner.qld.gov.au/_media/documents/our-work/review-of-the-charter-of-victims-rights-stage-2/OVC_Charter-review-stage-2_detailed-paper.pdf?_gl=1*1hcfb5q*_ga*MTEyODkzNTAwNC4xNzU1NTY0MzY3*_ga_42R4RMZKPK*czE3NzIzNDczODgkbzI0JGcxJHJHxNzcyMzQ3Njc5JGozOSRsMCRoMA..

Victims' rights must be upheld equally where the state is the alleged offender. The Office's discussion paper appropriately references the *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power* as a foundational document for the Victims' Charter (and also for the restitution, compensation and other assistance available through Queensland's Victims of Crime Assistance Act).¹² However the Charter and related legislation is silent on Part B of that Declaration which says States should also consider proscribing abuses of power and providing remedies to victims of such abuses.

Recognising and responding to state victimisation reframes events from isolated acts of abuse, dealt with via individual disciplinary practices and victim compensation, to a collective obligation to transform the systems, data practices and social conditions that enable harm to persist. Understanding victimisation in this way positions accountability of state government agencies as a source of prevention, not just protection and punishment. For further context, I have **attached a submission** I recently made to the *Child Safety Commission of Inquiry*, about systemic abuse and neglect.

4.3.1 Police, Corrections and Youth Justice

Police, Corrections and Youth Justice can exercise coercive powers, including physical restraint. Police also maintain control over evidence and complaints pathways. There have been at least five deaths in custody in Queensland that involved chokeholds by police¹³ with Coroners' reports about deaths in custody detailing the police violence on adults during arrests.¹⁴ Former Aboriginal and Torres Strait Islander Social Justice Commissioner, Ms June Oscar AO, has stated:

...reforming police practices and behaviours is not happening at the pace or scale required. Women and girls...are distrusting of the police and are not reporting harms, believing that the police response will cause them further harm... They have raised serious concerns about the discriminatory attitudes of police toward them. They have discussed how these attitudes result in police normalising violence against our women and children, disbelieving or disregarding issues reported, or lacking urgency and failing to intervene in violent incidents.¹⁵

Prenzler and Maguire, while discussing Mulrunji's death in custody on Palm Island in 2004, and the subsequent community uprising, suggest:

Much of what occurred would have been prevented had the anti-corruption commission **conducted a fully independent initial investigation** and, earlier, directed the police service to implement recommendations of the Royal Commission into Aboriginal Deaths in Custody regarding health services for intoxicated arrestees. One inquest report recommended that deaths associated with police contact be 'undertaken solely or primarily by the CMC (Crime and Misconduct Commission)' (Hine, 2010, p.150). However, this recommendation was ignored by the government (Mazerolle et al., 2022, p.17).

¹² Queensland government, *Victims of crime Assistance Act 2009*, <https://www.legislation.qld.gov.au/view/html/inforce/current/act-2009-035#ch.1>

¹³ A. Porter, March 10, 2026, *Dr Raylene Nixon's fight for justice and an end to police chokeholds in Queensland*, National Indigenous Times, <https://nit.com.au/10-03-2026/23068/mother-fights-to-ban-police-chokeholds-in-queensland>

¹⁴ T. Ryan, Coroners Court of Queensland, *Inquest into the death of Ashley Charles Washington, 2024* and *Inquest into the passing of Steven Lee Nixon-McKellar, 2026*, <https://www.coronerscourt.qld.gov.au/findings-upcoming-inquests/search-findings>

¹⁵ Senate Standing Committees on Legal and Constitutional Affairs, *An inquiry into missing and murdered First Nations women and children, 2024*, https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Legal_and_Constitutional_Affairs/FirstNationswomenchildren/Report/Chapter_4_-_Police_culture_and_practices#_ftnref3

With great authority and power must come the highest levels of integrity and accountability. Yet the ability for Queensland victims to complain where police, corrections or youth justice are involved, is significantly curtailed by the current lack of independent complaints processes by these three bodies. These bodies require victims to complain to an internal unit unless the matter is one of official misconduct, in which case the CCC can be involved. The QPS moved away from an internal complaints unit only after the Fitzgerald inquiry (1989), and in recent years the internal Ethical Standards Command has again become the main means of dealing with major complaints. This was identified by the Richards review as a significant barrier to assuring community trust in policy integrity and this review called for the reinstatement of independent and civilian control of the complaints process.¹⁶ This has yet to happen.

Given the regular examples, nationally and internationally, of police misuse of violence during arrests, and the challenges facing government and community in striking a balance between police authority and control,¹⁷ it is urgent and essential that an independent complaints body for police (and corrections and youth justice) is instated. The lack of independence in investigating complaints reflects a lack of care for victims of state abuse.

4.3.2 Children's access to complaints about police

There is documented evidence of watch house assault, deprivation of young people's needs, and racism. My Office regularly hears from young people about physical assaults by police, during arrest or in the watch house. The limited access in Queensland to legal redress, makes access to developmentally appropriate, independent complaints processes even more important. Children and young people should be able to participate in a complaints process without fear (UNCRC Article 12), however the current lack of access to an independent process means they almost never voluntarily complain. Any complaints process should have children's best interests at heart, not the interests of the state entity, and must include psychological and emotional support for the child victim (Article 39).

Aboriginal and Torres Strait Islander children experience disproportionate police contact. Some are surveilled and criminalised even before they reach the minimum age of criminal responsibility. Early surveillance will only compound any trauma or family difficulties being experienced. Meanwhile, victimisation of First Nations adults directly affects children's rights and safety, family and community stability and magnifies intergenerational trauma.

Again, consideration should be given to making the Office of the Victims' Commissioner responsible, with the appropriate capability-building, legislative and policy support, for handling complaints against police, corrections and youth justice in Queensland.

4.4 Powers of the Victims' Commissioner to intervene where agencies fail to respond

A key limitation of the current Charter is that the Victims' Commissioner has limited capacity to intervene where prescribed entities fail to respond appropriately to complaints or systemic concerns. While the Charter allows the Commissioner to receive complaints and request information, the absence of meaningful intervention powers reduces the practical value of the Charter for victims.

¹⁶ D. Richards, 2022, *Independent Commission of Inquiry into Queensland Police Service responses to domestic and family violence*, <https://www.qpsdfvinquiry.qld.gov.au/>

¹⁷ T. Prenzler & M. Maguire (2023) p.330, *Reforming Queensland's police complaints system: recent inquiries and the prospects of a best practice model*, *Current Issues in Criminal Justice*, 35:3, 324-339, DOI: 10.1080/10345329.2023

International standards recognise that victims' rights frameworks must include effective oversight mechanisms capable of intervening when state institutions fail to protect victims' rights. Potential powers could include:

- investigating complaints where agencies fail to respond within required timeframes
- compelling information and documents from prescribed entities
- initiating systemic investigations into patterns of Charter breaches
- publishing findings and recommendations where agencies fail to comply
- intervening in matters involving children or where there are significant power imbalances.

5. System capability and Cultural Safety

5.1 International practice in victims' rights oversight

International experience demonstrates that effective victims' rights frameworks require independent oversight bodies with statutory authority to monitor compliance, investigate complaints and drive systemic reform.

In the United Kingdom, the Victims' Commissioner monitors compliance with the Victims' Code and conducts thematic reviews of how justice agencies treat victims.

In Canada, the Federal Ombudsperson for Victims of Crime reviews complaints, investigates systemic issues and provides advice to government on strengthening victims' rights.

In New Zealand, the Victims' Commissioner monitors agency compliance with victims' rights legislation and can raise systemic issues affecting victims with Ministers and Parliament.

5.2 Capability-building

Prescribed entities/duty bearers need to receive training to sensitize them to the needs of victims, and guidelines to ensure proper and prompt aid, as proposed in the Declaration and in the Office discussion paper. Otherwise, the rights of victims can never be upheld in practice. Courts, police and service systems like Health require training in trauma-informed practice, child development literacy, cultural safety, non-discrimination and anti-racism. These capabilities will support not only their work with victims but also their work with the community more broadly.

Training and implementation should be co-designed with Aboriginal and Torres Strait Islander communities, migrant communities, and disability advocates, delivered by organisations led by these communities, and embedded as core system capability, not optional training.

A reformed Charter could usefully include definitions of cultural safety, anti-racism and discrimination, as educative for victims and prescribed entities/duty-bearers.

Many of the reforms proposed in this submission primarily concern governance arrangements, legislative design and oversight mechanisms rather than new service delivery programs. As such, a significant proportion of these reforms could be implemented through legislative amendment, improved complaints architecture and strengthened institutional accountability.

6. Conclusion

Successive Queensland governments have created a range of semi-independent statutory bodies in response to reviews or inquiries about systemic failings, but without giving them the legislative authority to compel timely responses to recommendations, receive transparent data about agency operations, and consequently enable effective monitoring of outcomes for the community. The Victims' Commission Charter and legislation is yet another example of creating an entity that gives the appearance of benefit, but which in practice can do little other than receive complaints and share information. Without structural reform, the Charter risks remaining self-limiting and a source of frustration for victims. The Charter needs to be repositioned as a functioning rights instrument. With targeted, practical changes, it can become protective, enforceable and trusted.

Strengthening the Charter of Victims' Rights would also support broader government objectives to improve trust, transparency and accountability across Queensland's justice institutions. When victims can access clear rights, independent complaints pathways and meaningful remedies, confidence in public institutions increases. A strengthened Charter would therefore not only improve outcomes for victims but also contribute to a more responsive, transparent and trusted justice system for the whole community.

This review represents a valuable opportunity to move from symbolic recognition of victims to a rights-based, enforceable and culturally legitimate framework. Without enforceable powers, the Charter risks remaining symbolic. A modern victims' rights framework must ensure victims have access to meaningful remedies, independent oversight and transparent accountability mechanisms across government.

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. 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.